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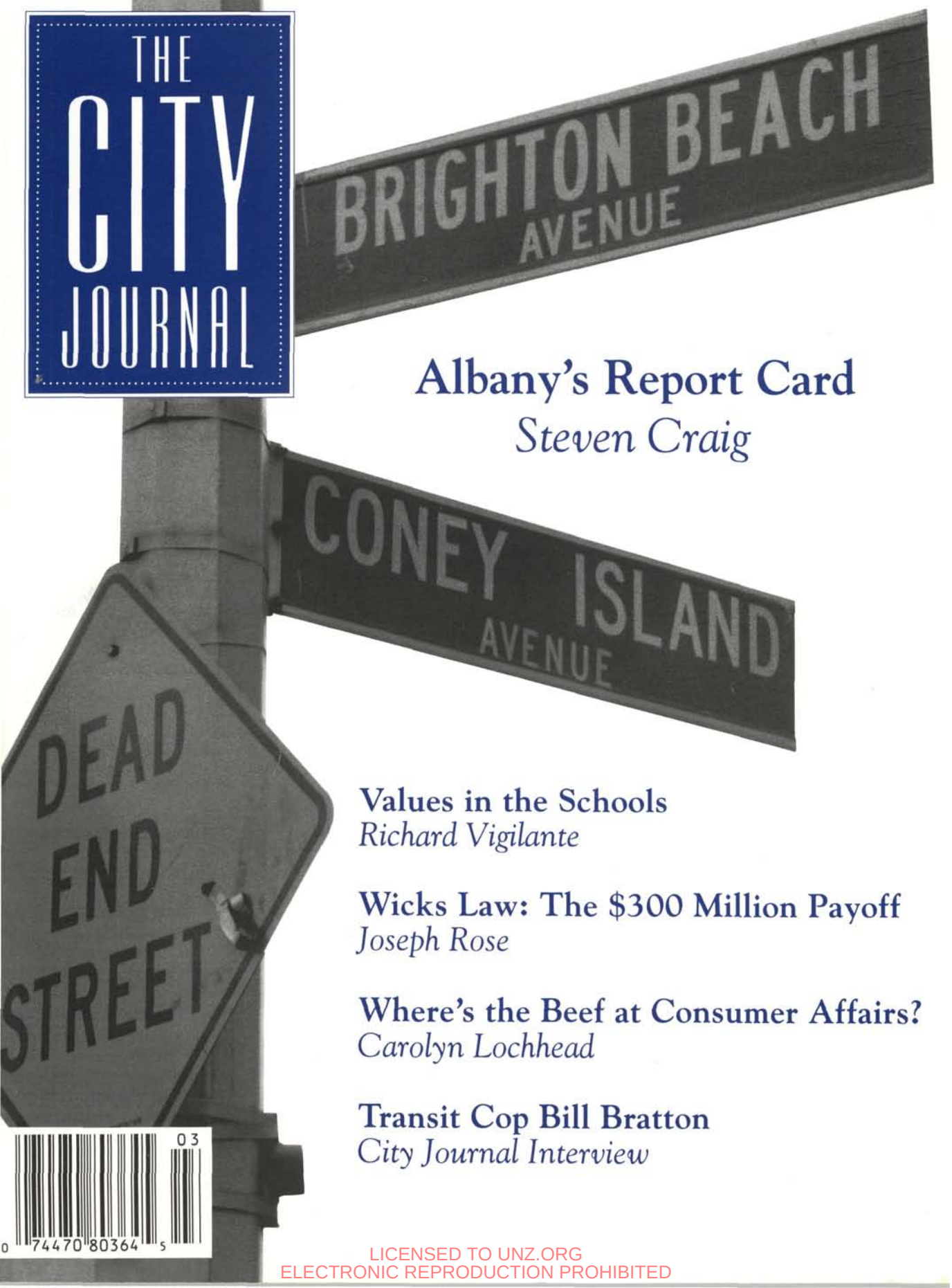

Albany's Report Card
Steven Craig

Values in the Schools
Richard Vigilante

Wicks Law: The $300 Million Payoff
Joseph Rose

Where's the Beef at Consumer Affairs?
Carolyn Lochhead

Transit Cop Bill Bratton
City Journal Interview

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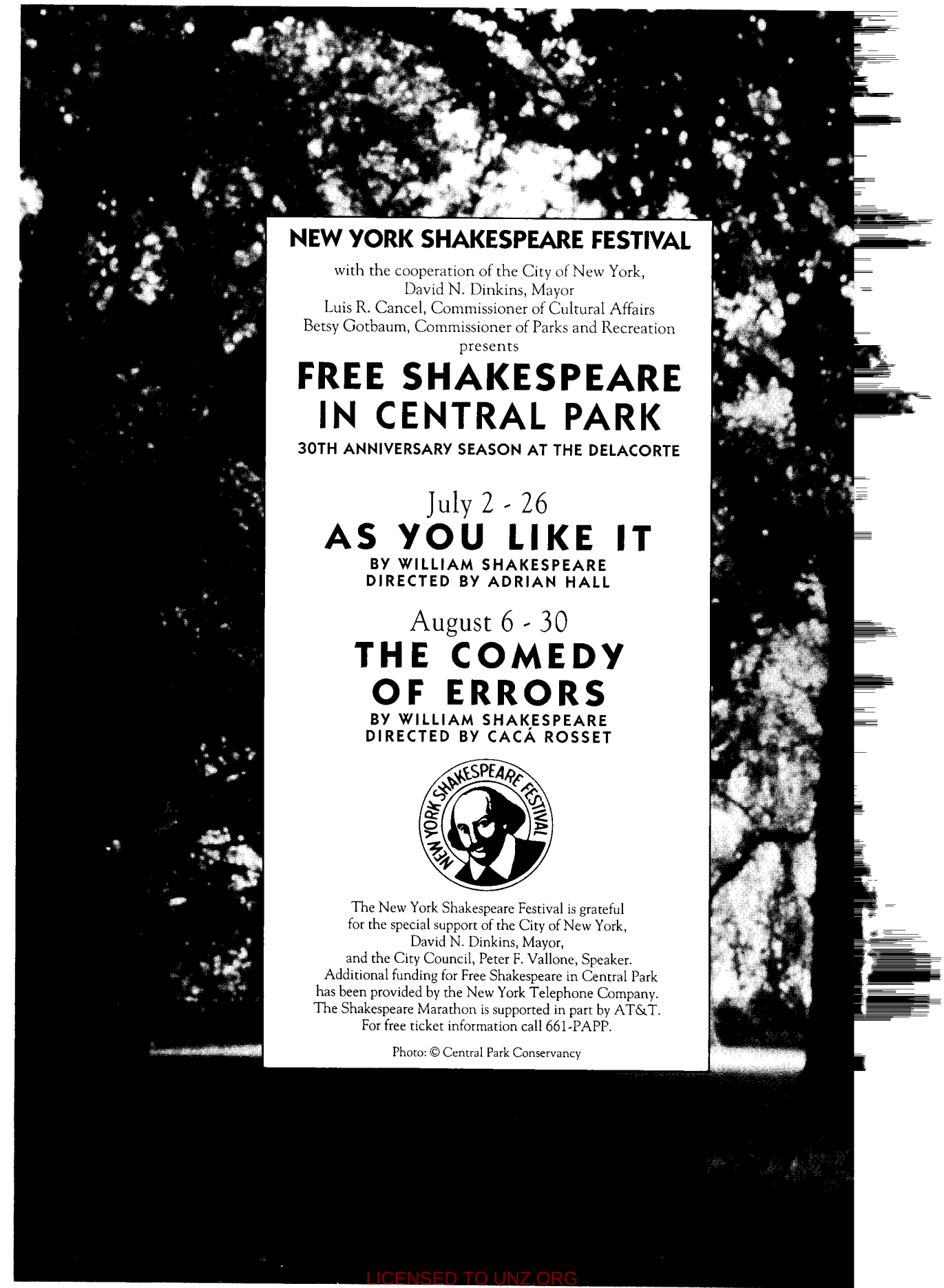

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CONTENTS

FEATURES

A Report Card on State Spending 25
New York's state and local government expenditures are far higher than any other state's. Where does all the money go?—Steven G. Craig

Opening the Door to Low-Cost Housing 37
How city regulations prevent the homeless from finding housing they can afford—Randall K. Filer

How to Keep New York's Water Running 47
Upstate development and federal environmental mandates threaten New York's supply of both water and housing—Peter Judd and Roger Starr

Politics and the Wicks Law 55
Why the Legislature refuses to repeal an unnecessary law that costs taxpayers $300 million a year—Joseph B. Rose

Fun and Games at the Consumer Affairs Department 63
Do Mark Green's publicity stunts actually hurt New York's consumers?—Carolyn Lochhead

***City Journal* Interview** 71
Police Chief William J. Bratton talks about reclaiming the subway

DEPARTMENTS

Editor's Journal 2

Letters 4

New York Views 9
Matthew Tallmer reports on an innovative program that gets addicts off drugs . . . Linda Chavez examines an important new book on race . . . The EPA sounds a false alarm on smog, reports Richard Miniter . . . David Wells looks at the State Legislature's latest gerrymander

Forum 22
Lawrence Mead discusses the new politics of poverty

Urbanities 82
Richard Vigilante offers a solution to the fight over values in the schools . . . James MacGuire visits old Broadway . . . Tomb With a View: The Victorian Cemetery for New York's Elite, by Maggie Gallagher . . . Letter from Brighton Beach, by Keith Elliot Greenberg

Diarist 105
Homecoming, by Beth Fallon

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THE CITY JOURNAL

SUMMER 1992 VOLUME 2, NUMBER 3

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EDITOR'S JOURNAL

THE TROUBLE WITH TENANCY

One of the things that makes New York unusual is the high proportion of its citizens who live in apartments. More than 70 percent of New Yorkers are renters, far more than in any other U.S. city except San Francisco. About half of Chicagoans are renters; in other American cities a majority of people own their own homes.

What effect does this have on the city's character and public policy? Homeowners often oppose apartment developments in their neighborhoods because they regard apartment-dwellers as rootless wanderers with little sense of community. This characterization is too extreme: Homeowners are not always so firmly rooted—the average home mortgage remains in place for only seven years. In New York, moreover, many apartment dwellers defy the stereotype by occupying the same apartment through generations, a practice encouraged by rent regulation. A long-occupied rent-regulated apartment is so cheap that the incentive to stay put is overwhelming.

Still, there is truth to the notion that apartment house living weakens the sense of community responsibility. One reason is that it's difficult to determine who is to blame for a breach of the rules in an apartment house. Two tenants with dogs, for example, might become embroiled in an argument over whose pet made a nuisance in the hall. Likewise, if someone fails to sort his garbage properly for recycling, the sanitation crew has no way of identifying the guilty party.

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The city's way of dealing with such problems has often been to hold the building owner responsible for the collective actions of his tenants. An article elsewhere in this issue details one such example, with disturbing implications: the water-metering system (see "How to Keep New York's Water Running," page 47). It is impractical to meter each apartment separately, so the city is installing building-wide meters in apartment houses. Because tenants do not directly pay for the water they use, they tend to consider water a free good and use it more extravagantly than homeowners who know they will have to pay the bill. As a result, New York uses more water per capita than the average city—though other cities have more lawns to water and cars to wash.

The biggest difference between homeowners and apartment dwellers concerns property taxes. The real property tax is the city's biggest money-raiser, accounting for 48 percent of all municipal taxes. A homeowner (or condominium dweller) receives a bill four times a year for the property taxes on his house and land. But tenants in apartment houses are never confronted with a bill for real property taxes. They pay income and sales taxes, of course, but these do not seem as painful since they are deducted from wages or added to the cost of a purchase.

The real property tax, in contrast, is all pain. A homeowner is forced to go into his savings to pay the property tax, or else it is taken from him, month by month, as the owner of his mortgage escrows prospective tax payments. Because they so directly feel the cost of government, homeowners become acutely sensitive to what the city does with their money. Homeowners' associations, thus, are among the most powerful advocates of lower municipal expenditures.

This is true in New York as well as in other cities. But because homeowners are a minority of the city's population, they lack much of the clout of their counterparts elsewhere. Landlords, who pay property taxes at a much higher rate than homeowners, are a relatively small group of voters, and thus have limited political power. This is an important reason why New York spends a lot more money per capita—no matter how the comparisons are made—than any other major U.S. city.

What could be done to change this state of affairs, to make New Yorkers more aware of the price they pay for an expansive city government? One solution would be to hold tenants rather than landlords responsible for the tax on rental property. Some tenant organizations have advocated this so their constituents could deduct the costs from their income taxes. But the city would be foolish to follow this course because it would make cheating on property taxes much easier. If a property owner does not pay his taxes, it is easy for the city to seize the property. Many tenants have no worthwhile assets to secure their payments; even if they do, it is much easier for the city to take control of property that is fixed and legally defined.

An encouraging sign is that many apartments are being converted to cooperatives. In a co-op, tenants pay their pro-rated share of property taxes, and are entitled to deduct it from their income taxes. Thus, they are acutely aware of the costs of the real property tax. In time these former tenants will probably join with homeowners in attacking city spending, deficits, and high taxes. It cannot happen too soon: Until a majority of New Yorkers start thinking like homeowners about the impact of overspending on their own wallets, New York City will follow its familiar course—spend more, worry later.

—RS

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LETTERS

The Quality of City Life

To the Editors:

The *City Journal*'s exploration of the quality of life in New York is a worthy and serious effort to deal with a question now facing many city residents—if living here is not as safe, healthful, and pleasant as living elsewhere, why stay?

In exploring issues of crime, schools, housing, and transit, the authors found that the actions and inactions of the city government are not particularly effective at enhancing the comfort and welfare of the people who live here.

Today's disillusionment with government on all levels, in many countries, is based in part on the increasing awareness that the bureaucracy, or nomenklatura, is self-serving. The studies suggest that the providers of government services should place the public interest before their own.

It is time to evaluate these proposals, to explore other areas like race relations and immigration, and to determine how citizens who want to stay and fight for a better city can help. The *City Journal* studies should be the beginning of a process of civic reform.

Henry J. Stern
President
Citizens Union
New York, N.Y.

To the Editors:

The *City Journal* deserves commendation for giving its readers seven stimulating essays on those elements of urban life that define its quality. Everyone talks of the "quality of urban life," but it took the Manhattan Institute and the Commonwealth Fund to give seven urban experts the freedom to explore its relevance to crime, the use of public spaces, schools, housing, transportation, planning, and job development.

How are all the good ideas in this issue going to be put in effect? Good ideas, after all, are not automatically translated into law or government policy. The changes in housing policy suggested by Professor Peter Salins, for example, will not begin to be possible without a public atmosphere in which an elected official could sponsor them without risking his political life. Your publication has an important role to play in creating such an atmosphere.

The *City Journal*, in short, has taken on the crucial job of exposing what's wrong with the city while recognizing the city's greatness that makes it worthy of the hard job of changing it.

Peter M. Flanigan
Managing Director
Dillon, Read & Co.
New York, N.Y.

Putting Schools First

To the Editors:

The article "Putting Schools First: Changing the Board of Ed's Priorities," by Raymond J. Domanico and Colman Genn [Spring 1992], is riddled with inaccuracies and misinterpretations of fact. The authors make the somewhat incredible point that the budget crisis was largely created by my decision to award a salary increase to teachers which neither the schools nor the city could afford. This is an interesting point of view, but of course it is totally untrue. The city administration, not the chancellor's office, agreed to the economic agreement with the teacher's union. The budget crisis in our schools and city was caused by the enormous economic downturn and the current recession. Because of this, our school budget has been cut by $725 million over the past two years. The "costly" teacher contract negotiated in fiscal year 1991 was comparable, in actuality, to the wage increase offered to all city employees, since the teachers deferred $40 million of their wage increase in exchange for a no-layoff pledge in February 1992.

The article also says that I "admitted" that the city had provided $30 million for additional security. This is also totally untrue, as I have repeatedly stated. The city placed $33 million in the board's budget for Safe Streets, Safe City programs. At budget adoption, $30 million of these funds were removed from the board's budget. When the board objected, the city indicated that the $30 million removed were not Safe Streets, Safe City funds but "other funds." Regardless of what the city wants to call them, the schools did not receive a $30 million increase in funds.

With regard to the board's general expenditures for security, we currently employ 2,400 school security officers, the nation's seventh-largest police force. My commitment to school safety, in spite of the budget crisis, is well known to the public. Through reallocations in the school budget and better deployment of staff, our security program was actually enhanced during this time of cuts.

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The information in the article about per-pupil spending is equally misleading. New York City now spends $850 per pupil less than the statewide average. This is 16 percent less than an average spending district in the state. Just one year ago, that figure was 10 percent less. Fifteen years ago, the city's per-pupil spending basis was 20 percent more. This indicates the degree to which education spending in New York City has declined. In spite of the paucity of resources, New York City schools have raised math scores and reading scores. And over the past two years, compared with the Chicago schools touted by the authors, we have a significantly lower dropout rate. In fact, the most recent statistics show a significant decline in our dropout rate in response to Project Achieve, a school-based approach to dropout prevention.

New York City also has the lowest rate of administrative spending in the state, according to independent researchers. The few magnet schools touted in the *City Journal* article are laudatory, but so are the 143 high school magnet programs recently judged to be a "national model" in a four-year longitudinal study by professional researchers at Teachers College. In addition, through our New Visions Projects and other collaborations, we are developing dozens of new partnerships for high school innovation and excellence, some with business, others with universities, and still others with community organizations.

The recent reforms in the city's public schools are well known to researchers and knowledgeable New Yorkers. The authors of the article, two disgruntled former Board of Education employees, should know better than to attempt through untruth and innuendo to cheapen the meaningful accomplishments that have taken place in our schools.

Joseph A. Fernandez
Chancellor
New York City Public Schools
Brooklyn, N.Y.

Raymond Domanico replies:

Chancellor Fernandez's claim that our article is "riddled with inaccuracies" is curious, for virtually all of our information came from Board of Education documents. The chancellor's criticisms are not primarily over matters of fact, but of analysis: He takes us to task for not presenting the facts in such a way as to put his administration in the best possible light.

Our article was not, however, an attack on Chancellor Fernandez's two-year-old administration. It was, rather, an assessment of how twenty years of education reform have been stymied by the failing institution which the chancellor inherited.

On the matter of per-pupil spending, I have acknowledged, both in this article and an earlier one published in the *City Journal*'s Summer 1991 issue, that per-pupil spending is higher in the rest of New York State than it is in New York City. In both articles, I also argue that this is largely the result of the city's spending priorities, not the state's. The chancellor makes the same point in his current battle with city hall over $67 million in state education aid that the city intends to siphon to other uses. In any event, there is nothing misleading in pointing out that per-pupil spending in the city is much higher today than it was ten years ago.

I do not quarrel with Chancellor Fernandez's claim that his initiatives have been responsible for a reduction in the dropout rate. However, that reduction has been quite modest: The four-year graduation rate for New York City high school students rose from 37.7 percent to 38.9 percent in the last year. The graduation rate remains lower than it was in 1986, and even then it was deplorable. The biggest impediment to reform is an unwillingness to face the fact that the system is failing too many of our youngsters. If the chancellor is encouraged by a graduation rate that is so low, it is hard to argue that the school system has turned the corner after decades of failure.

Chancellor Fernandez may call me a "disgruntled former employee," though I believe it is an unfair characterization. In Colman Genn's case, it most assuredly is. Mr. Genn concluded a thirty-year career in the city's schools by putting himself on the line to stand up to corrupt and racist school board members in Queens. The City of New York and the Board of Education itself honored him as a hero. For Chancellor Fernandez to dismiss Mr. Genn as "disgruntled" is nothing short of outrageous.

Park Preservation

To the Editors:

Fred Siegel's excellent article, "Reclaiming our Public Spaces" [Spring 1992], should have mentioned that the tremendous cuts in the Parks Department budget during the past two years (40 percent) constitute the merest fraction of "savings" for the City of New York. This decimated Parks budget formerly represented but 0.7 percent of the entire $29 billion budget for the city of New York. The draconian cuts have reduced Parks' share of the city budget to a starving 0.4 percent. This in effect

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constitutes a penalty for a city agency which has been, as Mr. Siegel suggests, unusually creative in seeking partnership alternatives to bolster its financing and improve the way in which it delivers services to the public. The undermining of government creativity and the callous suggestion on the part of some critics that government association with private organizations erodes public accountability are disheartening. On the contrary, there is a powerful synergy operating when such partnerships succeed.

Currently the New York City Parks and Recreation Department and the Central Park Conservancy are working together with the Parks Council, the Neighborhood Open Space Coalition, and other public agencies and private organizations on the development of a plan which will embody some of the hopeful strategies Mr. Siegel discusses. This coalition has been convened under the name "Public Space for Public Life." Its mission is to outline a plan, and the finance and governance strategies necessary to implement it, which will make a strong and realistic case for our present and future public spaces—that is, both the active places of urban social intercourse and tranquil oases which connect city dwellers to the world of nature.

Mr. Siegel cautions that "someone searching for serenity and solitude today would do well to avoid the heavily wooded northern sections of Central Park, where solitude can only be pursued by risking robbery or worse." I would like to point out that a number of programs are currently underway by the Department of Parks and Recreation and the Central Park Conservancy to make this beautiful woodland both tranquil and safe. Park paths and pedestrian bridges have been reconstructed and steps reset or bypassed to allow small police and maintenance vehicles access to the Ravine and Great Hill. A team of volunteers has been working in the woodlands removing trash and opening up views as they replant the native American forests there. Conservancy-funded programs at the North Meadow Recreation Center are turning the Upper Park into a resource for recreational activities of all kinds, including an Outward Bound-inspired Challenge Course.

Thus the Conservancy, in partnership with New York City Parks and Recreation, seeks to ensure that all of Central Park, not just part of it, is as clean, safe, and beautiful as the people of a great city deserve.

Elizabeth Barlow Rogers
Central Park Administrator
Department of Parks and Recreation
New York, N.Y.

Breaking the Gridlock

To the Editors:

Dick Netzer ["Congestion by Default: New York's Haphazard Transit System," Spring 1992] correctly recognized the tremendous progress made in the last ten years to improve the transit system, but it is disappointing to see that so much of the information in his article is either incomplete or just plain wrong.

Since Mr. Netzer's piece deals with expanding the capacity of the subway, it is surprising that he fails to mention that in 1990 we identified several ways to expand capacity in an assessment of the region's capital needs over the next twenty years. The projects identified in our "20-Year Needs Assessment" include an extension of the Flushing line into New Jersey, a rail link to LaGuardia and Kennedy airports, and a possible Long Island Rail Road link to Manhattan's East Side.

In fact, in our next capital program, we are proposing a project to expand capacity significantly on one of the most overcrowded lines in our system. The project would connect the Queens Boulevard lines (E and F) to the 63rd Street line in Long Island City. The connection will increase capacity at rush hour by 15 trains per hour, considerably reducing current overcrowding and offering an opportunity for further service expansion.

The federal funding for the projects is available, but we need the matching state and local share, which is contained in our $10.6 billion, 1992-96 Capital Improvement Program. The plan, which went unmentioned in the story, is currently awaiting approval in Albany.

Mr. Netzer's oversight is surprising because the program addresses many of the problems he has with our system. For example, about $1.6. billion is earmarked for station projects that will dramatically improve our stations' environment, making them more inviting for our customers. In addition, $556 million is dedicated to complete the installation of automated fare collection (including security measures and power upgrades), which will simplify the process of paying the fare on the system. The capital program will continue the good work of transit rebuilding, which Mr. Netzer praises as making subways "more reliable, faster, and more presentable."

Mr. Netzer also misses the point on why the Transit Authority opposes vans. The vans that operate on TA routes do so illegally and unsafely. Moreover, the majority of illegal vans are uninsured, unregistered, uninspected, unlicensed, or all of the above. Eighty-five percent of illegal van drivers have

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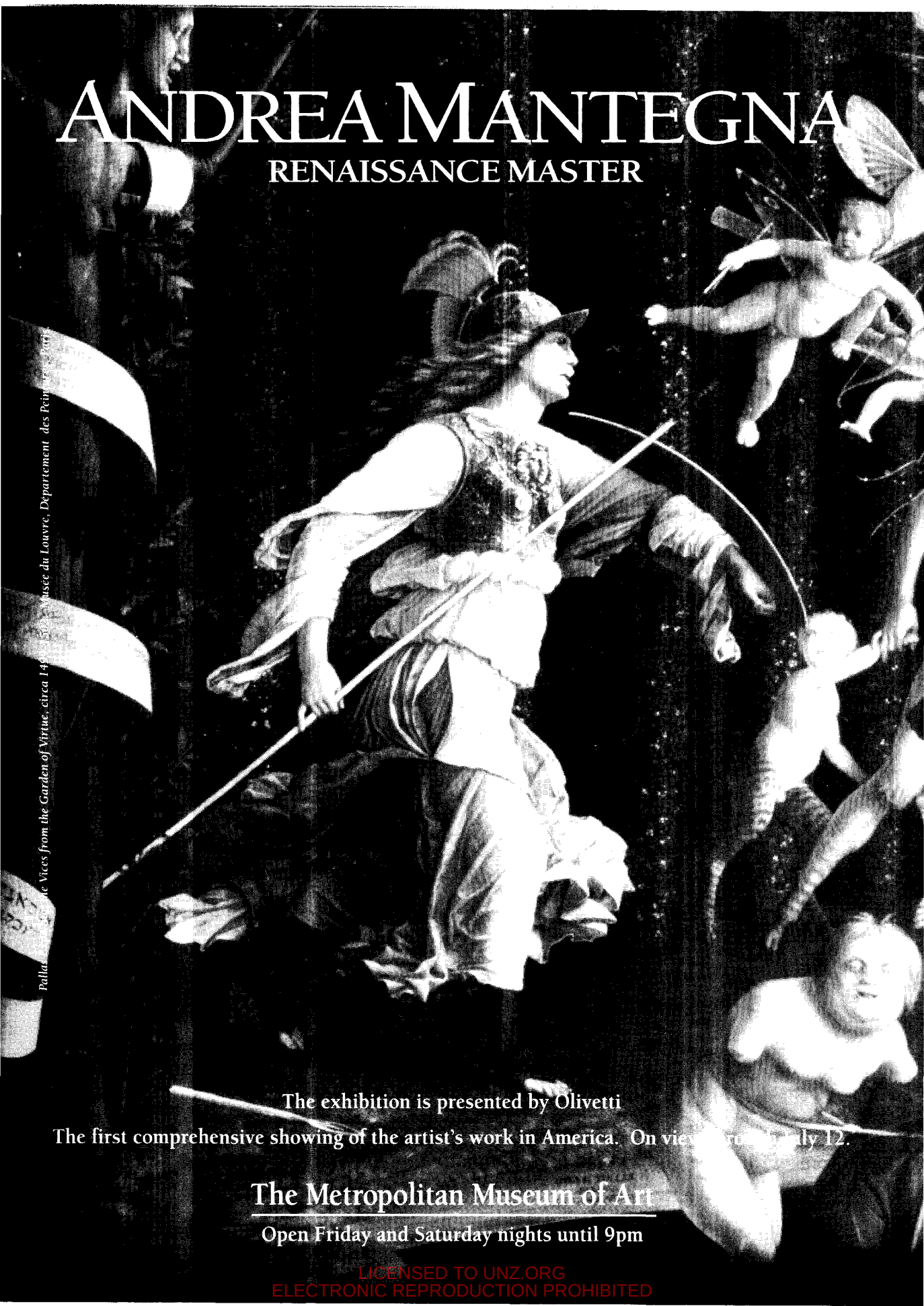
ANDREA MANTEGNA

RENAISSANCE MASTER



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no driver's license. One such driver, while recently making an illegal U-turn on Flatbush Avenue in Brooklyn, lost control of his vehicle and smashed into an Army recruiting center, killing two pedestrians. The TA welcomes legal and fair competition from vans. In fact, the TA's parent agency, the Metropolitan Transportation Authority, is currently conducting an extensive study into the role of private van services in the transit system.

Mr. Netzer suggests that vans are the "obvious solution" to provide service for the TA's lightly-used bus routes. The reality is quite different. Vans currently exist only on the TA's busiest and most profitable routes and only during rush hours. In addition, vans ignore large segments of the community such as the elderly, the disabled, and students, all of whom have access to the TA's 24-hour bus service.

A few historical points that were somehow missed in the story: Mr. Netzer is correct to say that more trains operated on certain lines in the 1960s than today. He fails to mention, however, that the number of trains was reduced as a result of an operating rule change following a fatal accident in the late 1960s. Until then, operating rules allowed trains to "stop and proceed" at a red signal. After the accident, the rule was changed to "stop and stay," which makes sense from a safety point of view. Surely, Mr. Netzer would not suggest that we jeopardize safety for the sake of adding an extra train.

Mr. Netzer is also correct to say that as late as 1965 the Transit Authority was ordering buses without air-conditioning. He fails to note, however, that so was everybody else in the United States and Europe. In fact, today Paris and London, with which our system is usually compared, have little or no air-conditioning on their buses or subways. Compare that with our buses, which are 98 percent air-conditioned, and our subways, which are 95 percent air-conditioned.

The improvements in air-conditioning, car reliability, and on-time performance were made possible by the MTA's Capital Program over the last ten years, during which time some $16 billion was invested to rebuild the transit system.

John Cunningham
Press Secretary
Metropolitan Transportation Authority
New York, N.Y.

Dick Netzer replies:

It is a bit surprising that an agency that is in the thick of controversy, like the Metropolitan Transportation Authority, should be so thin-skinned—or at least its press office is. Mr. Cunningham's nose is out of joint even about a criticism of the Transit Authority's practices way back in 1965 (pace Mr. Cunningham, the TA was in fact the only large transit operator in North America still ordering buses without air-conditioning in 1965).

Mr. Cunningham raises two issues that are not ancient history. First, he is offended that I did not praise the MTA's planning documents' proposals about expanding rail capacity. The 1990 projects cited by Mr. Cunningham have something to be said for them, but they would be horribly expensive and no financing for them is in sight. And, as Mr. Cunningham knows very well, nearly all outside experts have condemned the MTA proposal for the use of the 63rd Street tunnel as an expensive way of providing minimal congestion relief, which also will worsen existing subway service for other riders. In the article, I did note one alternative that many experts (for example, the Regional Plan Association) prefer: use of underutilized LIRR tracks in Queens for subway service—rejected mainly because of scandalous political opposition by, among others, the leading Democratic candidate for the Senate this year, Geraldine Ferraro.

Second, on the matter of vans: Operators of unregulated buses, vans, jitneys, and the like of course will prefer the busiest and most profitable routes, but if there is any consequential demand for service on other routes, and if the operators are legalized and free from harassment, there will be bus, van, and jitney service there too, albeit less frequent. If there is no demand, then neither the TA nor anyone else *should* be providing service. The TA, like holders of governmentally created monopoly positions everywhere, asserts that any competition must be bad and uses safety as a stick to defend itself. We don't need the TA to instruct us on the safety of its competitors; if van operators are uninsured, uninspected, and unlicensed, they violate ordinary motor vehicle laws (just as if they were operating private cars for personal use), which can and should be enforced.

Finally, another safety-as-the-last-refuge-of-scoundrels point: Safety on the subways can be improved by running even fewer trains than at present, and maximized by running no trains at all. All the experts agree that there is no reason why operating trains with two-minute headways should be unsafe, as is done in numerous cities throughout the world and on two TA lines even now, and was done on numerous TA lines in the 1960s.

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Miami's Drug Court

WORTH A TRY IN NEW YORK

Matthew Tallmer

New York's courts and prisons are being overwhelmed by drug cases. Last year, 43,396 people were arrested and nearly six thousand indicted on felony drug charges in New York City. The state prison population has more than doubled over the last decade, due mainly to mandatory sentencing laws and an increasing number of drug prosecutions. The city's Correction Department estimates that 70 percent of its roughly 22,000 inmates are charged with drug-related crimes. The cost is high: Last year, the state's Office of Court Administration requested an additional $40 million just to cover the expense of drug cases. Since the advent of crack a decade ago, the city has hired nine thousand new cops and seven hundred assistant district attorneys and has added 18,000 cells on Rikers Island. The total cost: $591 million a year.

One promising solution to these problems is the use of drug treatment as an alternative to prison. A study of ten thousand addicts, commissioned in 1990 by New York State, found that drug treatment leads to substantial and prolonged reductions in drug abuse and criminal behavior. But the city's drug-treatment programs are generally ineffective because they are either too strict or not strict enough. A handful of addicts in New York are in court-run drug treatment programs and many others have entered independent treatment programs as a way to avoid prison. But if they slide back into drug use (which is common, according to drug-treatment professionals), they are immediately subject to imprisonment. Thus, these programs only work for those—perhaps half of all addicts—who are able to quit immediately. Private, subsidized treatment centers are available for addicts who have not been charged with a crime, but these programs impose no real discipline on their clients. When drug users run out of money, they often enter these programs in order to receive free lodging and meals while awaiting the next welfare check, which pays for another fix.

What could New York do to get addicts off drugs? An innovative program begun in 1989 in Dade County, Florida, offers a model. A separate court, known as the Miami Drug Court, handles nearly all felony drug possession cases in which the defendants have no violent felony record. Defendants have the option to be prosecuted in the usual criminal courts, where cases involving drug sale or trafficking are also tried. But Drug Court, which allows defendants to escape prosecution if they get off drugs, has lightened the criminal

Matthew Tallmer is a free-lance writer specializing in New York City issues.

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THE OLD PENNSYLVANIA STATION

caseload by more than two thousand cases per year.

Hugh Rodham, the public defender assigned to Drug Court, says the court presumes that anyone charged with felony drug possession—defined in Florida as possession of any controlled substance, other than small quantities of marijuana—is an addict. (Exceptions are occasionally made for defendants who do not have a drug problem but were caught holding drugs for a friend.)

A Drug Court defendant is required to enter a treatment program lasting at least a year. His case is kept open during that time; charges are dismissed and the record sealed upon successful completion of treatment, which consists of three phases. In the first, the defendant is held for up to three weeks in the county jail, segregated from other inmates, to clear his system of drugs. During that time he undergoes daily counseling, urine analysis, and acupuncture, which is said to be the most effective treatment for cocaine addiction. The defendant is then released, but must attend individual or group-counseling sessions seven days a week, usually for three to four months. In the final stage of treatment, counseling is cut back to two or three times a week and the defendant receives job training and referral services. Counseling and other services are provided by a combination of private organizations and public agencies.

During the latter two stages, most defendants live at home and receive outpatient treatment, according to Tim Murray, the county's director of substance abuse policy. Most of those in the program, Murray adds, have at least part-time jobs, and the treatment is scheduled to accommodate them.

Defendants' progress is closely monitored by the court. The judge receives weekly reports on each defendant, including the results of randomly administered urine tests. If a defendant regresses, treatment may revert to one of the earlier stages, including detoxification in the county jail. But defendants cannot be expelled from the program unless they make no effort at treatment or are arrested for a violent felony.

The results are impressive: Prior to the creation of the Drug Court, Murray says, 33 percent of drug defendants were rearrested on felony charges within a year. Of the 1,300 people currently in the program, the rate is only 7 percent; among the 4,600 who have successfully completed treatment, 3 percent.

Drug rehabilitation experts cite three major reasons for Drug Court's success. First, the program treats relapse as part of the process of addiction, rather than as cause for ending the treatment. Second, the program imposes the external discipline addicts need to break their habit. Third, the course of treatment is tailored to the individual needs of each defendant, with the court exercising control only when an addict fails his urine test.

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Murray says the county may expand the Drug Court program to include defendants arrested for nonviolent crimes other than drug possession—for example, burglary or passing bad checks—when the crime was committed in order to support a drug habit. Such defendants could also be required to make restitution to their victims.

Six other cities—Mobile, Oakland, Fort Lauderdale, Las Vegas, Dayton, and Portland, Oregon—have begun or plan to begin programs similar to Miami's Drug Court.

New York, meanwhile, has fewer than 150 defendants in court-run drug treatment programs. There are two such programs: Drug Treatment Alternatives to Prison (DTAP), run by Brooklyn District Attorney Charles Hynes, and a cooperative effort with the Fortune Society, which provides treatment for only twenty addicts.

DTAP, which may soon be expanded to the other four boroughs, is only open to nonviolent predicate felons—those with at least two previous convictions—who have been caught in "buy and bust" stings and are approved by several law-enforcement offices and the drug-treatment provider. Predicate felons face mandatory prison terms under New York law, while first offenders are rarely prosecuted. One prosecutor notes that in order to be convicted twice, a felon usually has to be arrested four times. Charges are usually dismissed for the first offense; the second is plea-bargained down to a misdemeanor. "Why can't we go in and help someone before they commit five felonies, if all they have is a drug problem?" the prosecutor asks. It seems likely, too, that first offenders would be easier to treat than those who have been through the system repeatedly and are presumably more deeply involved with drugs.

Another problem with DTAP is expense. The program provides its clients long-term residential care—including room, board, and round-the-clock supervision—at a cost of $16,000 a year. This is far cheaper than the $56,210 annual cost of incarceration. But Dade County's Drug Court program treats 1,300 addicts at an annual cost of $910,000—$700 per patient. The program is so economical largely because most of the treatment it offers is on an out-patient basis. In addition, defendants in Drug Court are required to bear part of the cost of their treatment, depending on their ability to pay.

Funding problems have stalled plans in New York City to institute another program known as ASPIRE (Alternative Sentencing Pre-Indictment Rehabilitation Effort). This program would provide outpatient treatment to fifty drug-addicted, nonviolent predicate felons who pass an evaluation administered by the Court Employment Project.

New York should set up a Miami-style Drug Court of its own, open to all defendants charged with drug possession who have no record of violent felonies. (Those who have pending violent felony cases could be tried on those charges and, if convicted, enrolled in prison-based treatment programs, which are currently available in the state's correctional institutions.)

According to the state's Division of Substance Abuse Services, it costs about $4,000 a year in New York to provide drug treatment for an addict. There were roughly 17,000 felony drug possession arrests in the city last year, so the annual cost of treatment would be about $68 million. There are some six thousand vacant outpatient slots in drug-treatment centers citywide, so a Drug Court program would require the creation of roughly 11,000 new slots, at a one-time cost estimated by the Division of Substance Abuse Services to be $44 million.

Despite these costs, the savings would be substantial. Because the system is overburdened, most felony drug possession arrests never lead to indictments, according to Eric Pomerantz of the city's Special Narcotics

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Prosecutor's Office. But suspects are held in pretrial detention, at a cost of $158 per day, for an average of 46 days, according to the city's Correction Department. That means the cost to the city for incarcerating drug suspects who are never prosecuted is as high as $124 million a year. An effective drug-treatment program would save millions and deal compassionately with addicts without letting felons off the hook.

The New Polemics of Race

Linda Chavez

Were it not for the Los Angeles riots, Andrew Hacker's new book, *Two Nations: Black and White; Separate, Hostile, Unequal* might have languished on the shelves, its praises unsung beyond the literary journals of the Left. But with the rubble in South-Central L.A. still smoldering, the book's publishers went back to the presses twice, turning out 90,000 copies. Within a week, *Two Nations* was on the best-seller list, and Hacker, a professor at Queens College, became a frequent commentator about the riots on television, radio, and in print. The media had found the perfect riot pundit—a middle-aged, white professor who could explain "black rage," the phenomenon supposedly responsible for three days of arson, looting, and murder which followed the verdict in the trial of the four police officers accused of beating Rodney King. Unfortunately, both Hacker's media commentary and the book he has written are more likely to inflame animosity than encourage understanding.

What happened in Los Angeles was incomprehensible to most Americans. By virtually all measures, the conditions in which the majority of blacks live and work have improved in the last thirty years. Opportunity is more widely available and discrimination less common and less severe. Even if racial tensions have increased somewhat in recent years, part of the explanation is that blacks and whites are more likely than in the past to come in contact with each other at school, at work, where they shop and play, and, to a lesser extent, where they live. Yet despite obvious improvements in the lives of most blacks, for those who live in crime-infested, fatherless, welfare-dependent neighborhoods, things have never been worse. In South-Central Los Angeles, the presence of gangs and crack cocaine have made life almost unbearable in parts of this once working-class neighborhood of modest, single-family homes and small apartment houses. These factors were responsible for the rampant lawlessness that erupted on April 29. In a city in which there were 690 gang-related killings last year, where a child can be murdered for wearing the wrong color baseball cap on gang turf, why should it come as a surprise that a man would be dragged from his truck and beaten senseless because he happened to be of the wrong race, in the wrong place, at the wrong time?

Hacker's book might have given some insight into the chasm that exists not just between whites and blacks, but between the great bulk of black Americans who lead law-abiding, productive, and rewarding lives, and the few whose destructive behavior was epitomized in the Los Angeles rampage. Instead, Hacker chooses to see such violence by some blacks "as expressing a despair that suffuses much of their race." If most blacks do not take to burning stores and beating whites, Hacker's analysis seems to suggest, perhaps it is because they have mustered "an extra patience and perseverance that whites have never required of themselves."

Linda Chavez is a senior fellow at the Manhattan Institute and director of the Center for the New American Community.

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COURTESY OF SEYMOUR DURST

THE BROOKLYN BRIDGE

In Hacker's estimation, all blacks are victims and all whites responsible for what he sees as blacks' universally hapless existence. "It is white America that has made being black so disconsolate an estate," Hacker tells us. But in his zeal to assign blame to "white America"—or what in one place he actually calls "the white race"—Hacker displays a morbid condescension toward blacks. By conflating the misery of the underclass with the ordinary existence of most blacks, Hacker confers on racial identity a stigma most blacks (and one hopes most others, too) would resoundingly reject.

In what has become perhaps the most often cited passage in the book, Hacker describes an experiment in which white college students are asked to imagine that they are paid a visit by an official who informs then that at midnight they will become black. "And this means not simply a darker skin, but the bodily and facial features associated with African ancestry," Hacker gratuitously adds. Students are told, "Inside you will be the person you always were. Your knowledge and ideas will remain intact. But outwardly you will not be recognizable to anyone you now know." Students are then asked to tell the official how much money they would consider a fair sum to compensate them for this dramatic change in their lives. According to Hacker, most students say they should receive $1 million a year for as long as they live. "This calculation conveys, as well as anything, the value that white people place on their own skins," he concludes. But does it really? Does it make sense to assume that only whites might want to be compensated for being deprived of all family, friends, and acquaintances, which as much as skin color is part of the trade required? One can only wonder what the response of black students might be to such a proposition because Hacker either didn't bother to inquire or doesn't report his findings.

Certainly the assumption would be a logical one if what Hacker describes as white attitudes toward blacks were indeed real. In

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Hacker's view, whites despise blacks. According to Hacker, "most white people believe that, compared with other races, persons with African ancestries are more likely to carry primitive traits in their genes." Conservatives are more apt to believe this, he asserts, "and proclaim it when they are sure of their company." Liberals, on the other hand, may be less likely to believe differences between blacks and whites are due to heredity and, in any case, "if they harbor doubts, they keep them to themselves."

Racism serves an important function for whites, according to Hacker: "No matter how degraded their lives, white people are still allowed to believe that they possess the blood, the genes, the patrimony of superiority. No matter what happens, they can never become 'black.' White Americans of all classes have found it comforting to preserve blacks as a subordinate caste: a presence, which despite all its pain and problems, still provides whites with some solace in a stressful world." It is worth noting that in a book filled with statistics, tables, and charts, there is not one bit of evidence cited to support the claim that whites hold such views.

Indeed, most public opinion polls show that prejudice among whites has diminished significantly in recent years. Nonetheless, Hacker is not alone in ascribing malign racial intentions to whites. A substantial proportion of blacks apparently believe that whites would like to eliminate them. A 1990 *New York Times* poll, for example, found that 10 percent of blacks believed that the AIDS virus "was deliberately created in a laboratory in order to infect black people," and another 19 percent said that the theory might be true. What's more, a quarter of the blacks polled said that the government "deliberately makes sure that drugs are easily available in poor black neighborhoods in order to harm black people," and another third said this might possibly be true. What once would have been the paranoid fantasies of a few have gained new saliency among a much larger group of blacks, including many who are middle class.

The danger in Hacker's cant is that it will be seized upon to confirm such racial fears, even granting them the veneer of academic legitimacy. Hacker is, after all, a respected professor. A black journalist acquaintance confided to me that reading Hacker's book has helped her finally understand what whites really think about blacks. Heaven help us.

A False Alarm on Smog

Richard Miniter

The summer of 1988 was a long hot one in New York City. With the mercury soaring above 90 degrees more than one day out of three, by August the heat had become unbearable. Those who could fled the city for the shore or the country; the rest took refuge indoors.

It was a polluted summer as well. Hot weather helps spur the complex chemical reactions that produce urban ozone, commonly known as smog. The New York metropolitan area exceeded federal ozone standards on 21 days during 1988, compared with 11 in 1989, 5 in 1990, and (according to preliminary data) 8 in 1991.

New York was not alone: 1988 was a hot, smoggy year across the country, thanks to "a summer [of the sort] that would occur less than once every 25 years," according to scientists David Fairley and Charles L. Blanchard, writing in the *Journal of the Air Waste Management Association*. Alarmed, Congress passed the 1990 Clean Air Act, which instituted a host of new regulations designed to combat air pollution. These regulations, which must be

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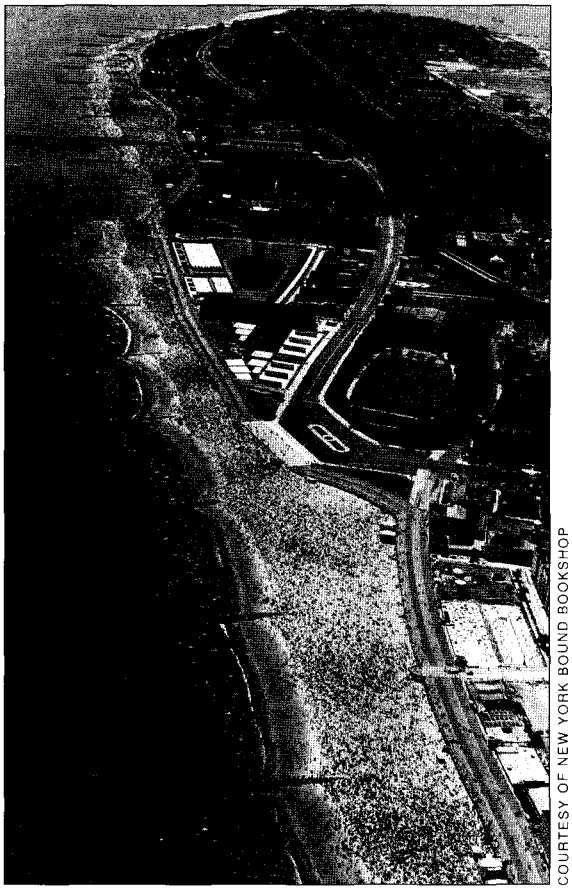
enforced by city and state governments, impose enormous burdens on both the private and public sector in regions of the country with ozone problems labeled "serious" or worse, including the New York City area.

Under the Clean Air Act, many companies in these regions are required to install costly antipollution devices or shut down. New buildings must be accompanied by reductions in pollution that more than offset the effects of the planned development.

Transportation is especially hard-hit by the regulations. Automobile emissions account for more than half of urban air pollution. But the problem is primarily caused by old cars; cars built since 1983 emit 96 percent less pollution than similar vehicles did in 1970. The air will continue to get cleaner as older cars are replaced by newer ones, which emit almost no pollutants. Yet the Clean Air Act of 1990 mandates that automobile-related air pollution be reduced by 15 percent *after* these expected reductions are accounted for. To accomplish this, New York's local authorities may be forced to raise bridge tolls, shut tunnels during rush hour, and forgo road and highway improvements.

Moreover, gasoline must be reformulated by 1995, raising the price at the pump by between 3.5 and 15 cents per gallon. If New York remains out of compliance after 1995, another gasoline reformulation will be required, raising the cost of gas by another 25 cents. Gas stations will be forced to install devices to recover gasoline vapors at a cost of $2,700 per pump nozzle (nearly $50,000 for the average station). Garages that perform smog inspections, which account for as much as 80 percent of smaller garages' business, will be required to purchase as much as $300,000 worth of new equipment, nearly ten times the cost of the devices currently in use.

These requirements could sink many small businesses. Yet because auto emissions have already been reduced so drastically, the new rules can have little effect on air quality. With the dramatic reductions in pollution already behind them, regulators have reached the point of diminishing returns—eliminating the remaining ozone will cost many times more than the amount spent over the last twenty years. While the EPA shies away from such utilitarian calculations, few inside or outside the bureaucracy expect that the newest, harshest rules will yield noticeable improvements in air quality at any price.



CONEY ISLAND (1939)

COURTESY OF NEW YORK BOUND BOOKSHOP

The problem with urban ozone, in fact, is vastly overstated. New York City is actually out of compliance with federal ozone regulations for only a few hours each year, even in the worst-polluted years. The EPA defines a region as being in "nonattainment" if any monitoring station in the region has four or more one-hour violations of the urban ozone standard during a three-year

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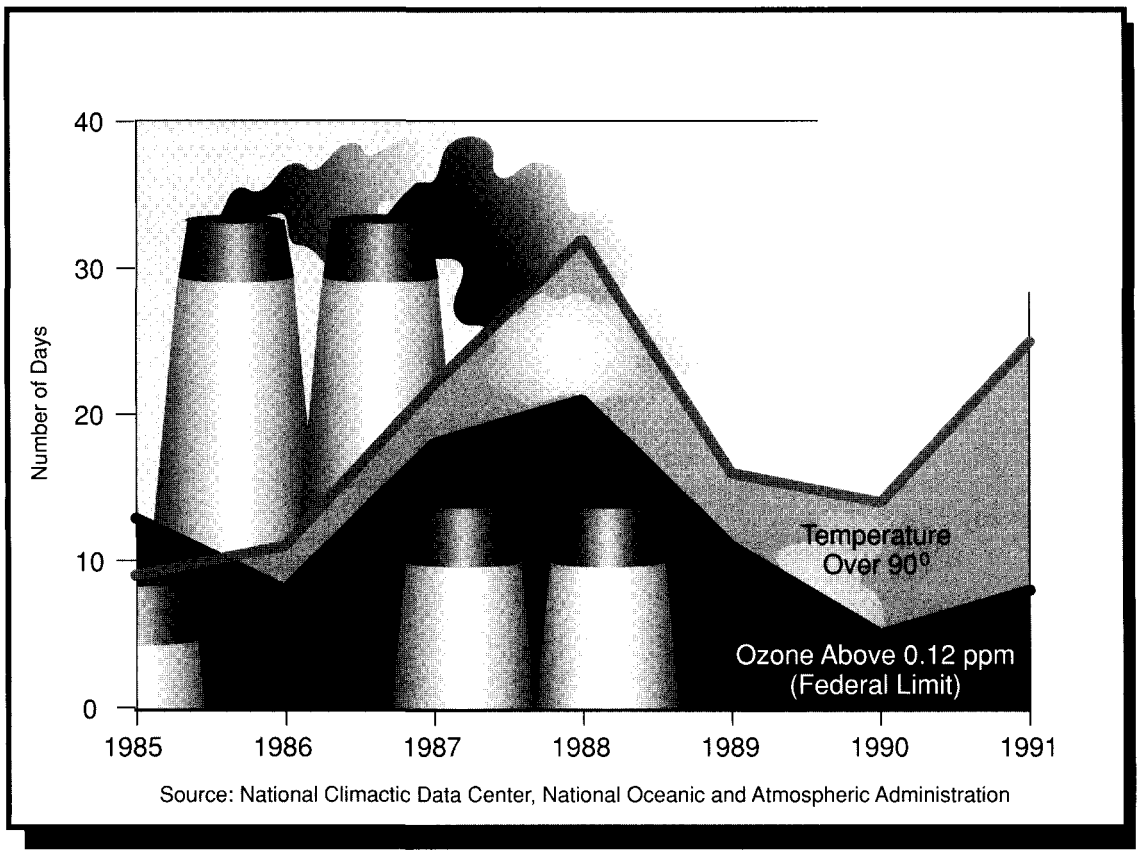
FIGURE 1

Smoggy Days and Hot Days in New York City



Source: National Climactic Data Center, National Oceanic and Atmospheric Administration

period. Even Los Angeles, by far the nation's most polluted city, violates this standard less than 1 percent of the time.

More importantly, ozone is largely a natural phenomenon, more a function of weather—high temperatures, low wind speeds, and temperature inversions—than anything else. In fact, the smog monitors in the New York metropolitan area that had the highest ozone readings in 1988 were in areas of Connecticut, New Jersey, and Westchester County, where weather patterns are more conducive to smog formation than in the city itself.

Fairfield County, Connecticut, has consistently higher levels of ozone than New York City. But the city is subjected to harsh regulations based on the Fairfield readings because the EPA arbitrarily includes both in the same "nonattainment area." Nationwide, the EPA has expanded its regulatory power during the last decade by consolidating regions into larger nonattainment areas, in which all localities are subject to regulations based on the readings taken at the worst-polluted spots. Thus, while only 25 million Americans lived in nonattainment areas in 1980, 67 million do today.

Yet during the same period, the air has actually gotten cleaner, both in New York and across the country. According to EPA documents, overall smog levels across the country dropped by 10 percent between 1981 and 1990, and the number of days on which urban ozone exceeded the federal limit of 0.12 parts per million fell by more than half. Of 23 cities surveyed by the President's Council on Environmental Quality in 1989, 19 showed long-term improve-

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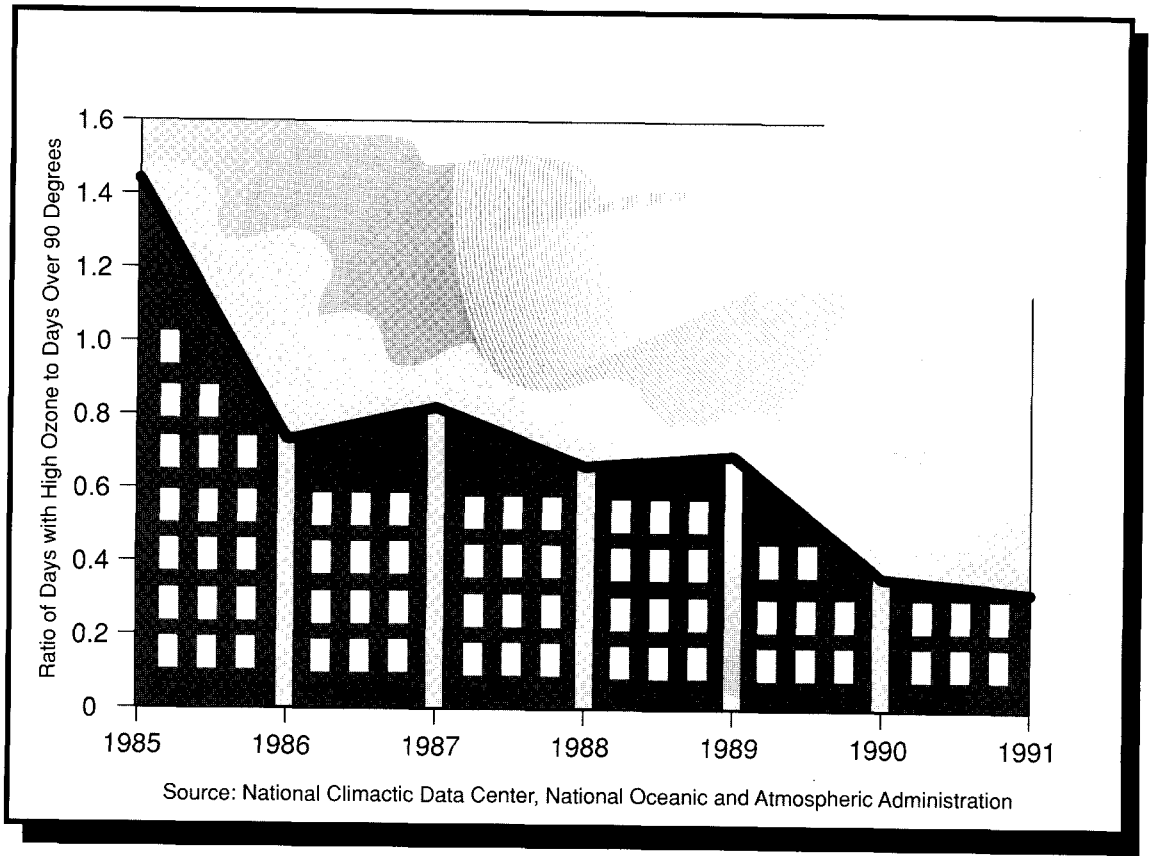
FIGURE 2

Decline in Smoggy Days Relative to Hot Days in New York City



ments in air quality, and only one showed a modest decline.

When it measures smog, the EPA fails to take into account the natural fluctuations caused by the weather. "The effect," according to EPA researchers William M. Cox and Shao-Hong Chu, "is to mask any long-term changes in [urban] ozone." In New York, those changes are dramatic and encouraging. According to Cox and Chu, air pollution in the city fell an average of 1.9 percent per year between 1981 and 1990, once the influence of weather is factored out.

Temperature and smog are closely linked, as Figure 1 shows. The number of days on which New York's ozone level exceeds federal standards fluctuates with the number of days on which the temperature is more than 90 degrees. However, as Figure 2 shows, ozone rates show a steady and substantial improvement when changes in the weather are taken into account. The ratio of high-ozone days to days over 90 degrees has fallen sharply over the last six years.

The EPA, however, relies on unadjusted figures over a three-year period, currently 1988 to 1990, to determine how far out of compliance each region is. Because the summer of 1988 was extraordinarily hot and smoggy, New York is currently considered to be an area of "severe" nonattainment with federal air-quality rules. That means in addition to the regulations already described, New York must:

• Impose far stricter limits on polluters, which are fined at least $5,000 for every ton of pollution above the threshold. The lower limits could make it harder for

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small factories, as well as businesses such as dry cleaners and bakeries, to keep operating.

- Enforce pollution rules on boats, barges, and other waterborne commercial craft, which produce minimal amounts of pollution.
- Crack down on manufacturers of consumer products, such as paints and solvents, that emit hydrocarbons—raising prices for consumers.
- Adopt new technologies for controlling nitrogen oxide emissions.

If the EPA were to update its data, subtracting the readings from 1988 and adding those from 1991, New York's classification would drop from "severe" to "serious," easing the regulatory burden on the city. The EPA has not yet formally approved its 1991 data pending "quality assurance," a process in which the data are checked for discrepancies caused by malfunctioning monitors, statistical errors, and similar factors.

The agency, however, showed no such hesitancy in 1988, when, before the summer had even ended, it publicized preliminary data showing alarmingly high rates of ozone. 1988 was clearly an aberrant year, but the data were released early because of "pressure from people with an ax to grind," including environmentalists and members of Congress, according to a senior EPA official, who spoke on condition of anonymity. An EPA memo acknowledges that the data were "submitted to the Administrator on August 18, 1988, in preparation for his appearance for the McNeil/Lehr [sic] Show."

The result of this environmentalist panic is a host of new regulations that will have little effect on pollution. The air is getting cleaner, and has been at least since 1970, primarily because technology has evolved toward cleaner, more efficient use of energy. Part of the credit for cleaner air is due to past legislation, including the 1977 Clean Air Act amendments. But those regulatory efforts that can be expected to help substantially, such as stricter emission standards for cars, are already in place and will continue to contribute to improved air quality as older, dirtier cars are taken off the road.

The EPA should update its smog data as soon as possible and stop relying on the unusual readings of 1988 to determine New York's regulatory obligations. But this would not be enough. In order to free itself from the regulations imposed on "severe" nonattainment areas, New York would have to file a lawsuit against the Federal Government. During the time it took to win a court judgment, another hot year might knock the city out of compliance again.

Senior Bush administration officials, including White House Counsel C. Boyden Gray and Vice President Quayle's Council on Competitiveness, are currently examining possible reforms in EPA regulations. They should recommend that the EPA institute a "fast-track" appeals process, so cities can get off the nonattainment list when air quality improves, without the need for costly, time-consuming litigation.

The EPA should also begin adjusting its data for temperature and other natural factors that influence the creation of ozone. Then New York and other cities, as well as the Federal Government, could gauge the long-term trends in air quality and formulate policy rationally, rather than succumb to hysteria whenever the weather gets hot.

The Redistricting Cartel

David Wells

When the New York State Legislature redrew its district lines this year, it proclaimed its determination to do the job fairly

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David Wells is the associate director of the political department of the International Ladies' Garment Worker's Union, AFL-CIO.

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and openly. A bipartisan task force was given wide latitude to draft recommendations. The panel held two sets of hearings and incorporated public suggestions into its proposals. Yet while the smoke-filled room may be a thing of the past, the final legislative districts reflect a new variation on the age-old practice of gerrymandering.

Until the 1960s, gerrymandering meant only one thing: drawing district lines to give the dominant party an advantage. The word was coined in the early nineteenth century after Massachusetts Governor Elbridge Gerry's party drew a salamander-shaped district through Essex County, north of Boston. In pre-Sixties New York, the GOP was invariably the beneficiary of gerrymandering. Today, however, it is often a bipartisan undertaking, in which legislators draw district lines to create large numbers of "safe" districts for incumbents. Race has also become a central factor: In 1982, Section 2 of the federal Voting Rights Act was amended, giving the U.S. Justice Department the power to reject district lines that fail to give minorities "equal voting opportunities." Many lawmakers and civil rights groups have taken this provision to mean that ethnic minorities must be concentrated as much as possible into districts in which they are a majority of voters.

Because the New York State Legislature is divided—Democrats control the Assembly, Republicans the Senate—neither party could dominate the redistricting process. Thus, it was clear from the start that the majority party in each house would determine the districts for its chamber, as was done in 1982. (The Legislature was unable to agree on terms for redrawing U.S. congressional districts, so that task is now in the hands of a federal court.) The task force's proposals, passed March 9 after minor modifications, revealed an undisguised effort to strengthen the party in control of each house and to establish as many "minority majority" districts as possible.

In the Senate, the new lines put ten incumbent members—all Democrats—into five districts, assuring that at least five would have to retire, move, or be defeated in a primary. Similarly, eight Assembly Republicans were paired into four districts. Six Democrats were also bracketed into three Assembly districts, and one district included the home of an incumbent of each party.

In drawing the new district lines, the Legislature ignored New York's Constitution, which under a century-old amendment requires that as few counties as possible be subdivided in forming districts and that districts be geographically compact. The compactness requirement was intended to prevent district lines from being shaped for partisan advantage, in direct response to a notorious gerrymander of the 1890s. The motivation underlying the requirement that counties not be split was mixed: One of its initial purposes was to perpetuate Republican dominance by guaranteeing all but the smallest counties their own seats. Still, these rules provide clear and objective criteria for drawing districts, and should serve to limit gerrymandering. Unfortunately, the courts have almost never enforced these requirements, and the Legislature has been left to carve out districts in contravention of both geographic logic and constitutional intent.

It would have been quite possible, for example, to devise a districting plan by dividing only three smaller counties (those with populations under the district average) for each house of the Legislature. Instead, the plan that was passed subdivides eight such counties in the Senate and ten in the Assembly. Assembly District 147, outside Buffalo, contains portions of six different counties. The task force declared it necessary to divide counties in order to comply with "federal equal protection and minority representation requirements." But most of

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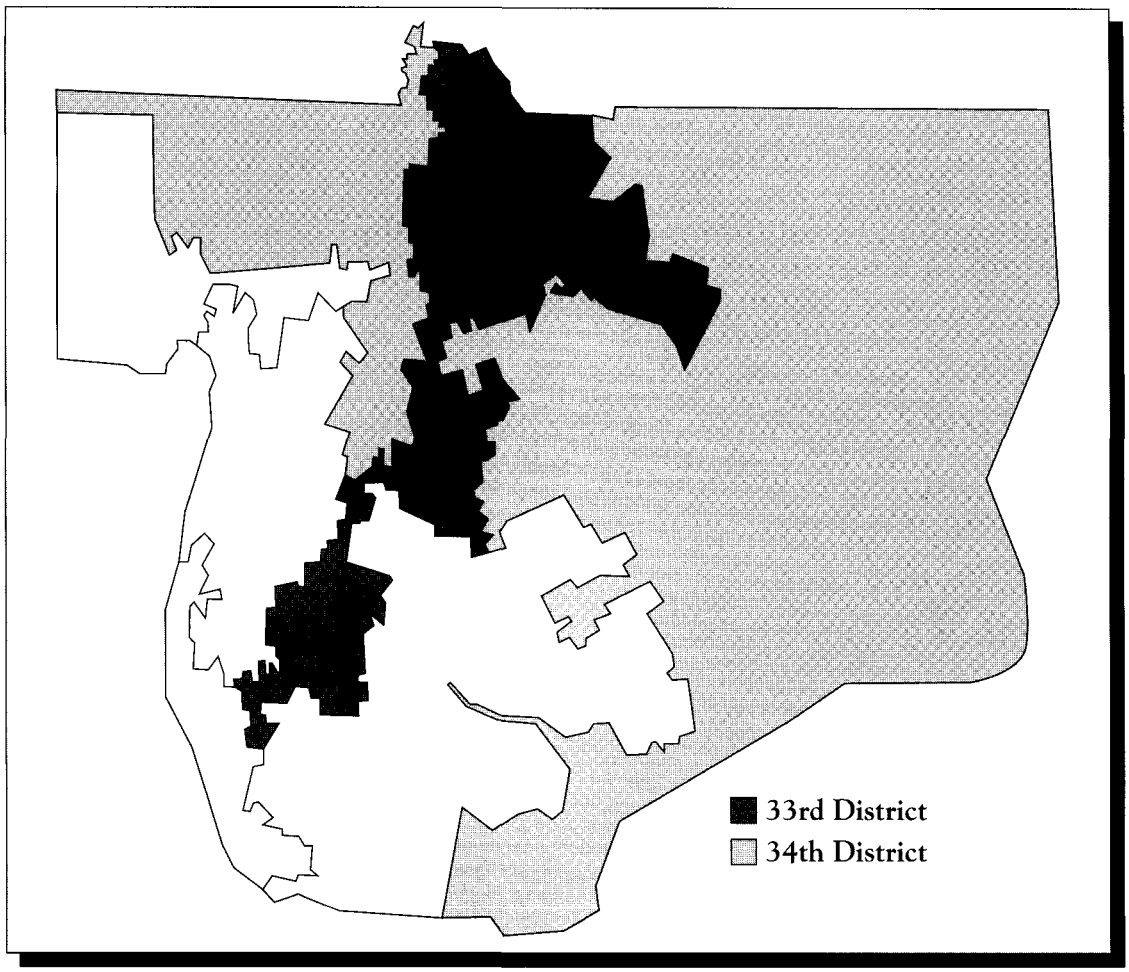
Bronx State Senate Districts



the affected counties are in remote rural areas, far from any racial minority concentrations. Clearly the county-integrity requirement was ignored because heeding it would have made it more difficult to protect majority-party incumbents.

Violations of the compactness requirement are even more striking. Perhaps the most extreme example is the 33rd Senate District, part of which is shown in the map above. Starting in the southwest Bronx, it wiggles through widely separated parts of the borough, then crosses the city line, picking up a piece of Mount Vernon. It is 56 percent black. The neighboring 34th is 69 percent white and elects a Republican senator whose prospects were considerably enhanced by the way the boundary was drawn. Both districts cross the county line: The Westchester portion of the 34th wraps around the top of the 33rd to pick up the whiter, more Republican parts of Mount Vernon and Yonkers.

Governor Cuomo had threatened to veto the redistricting bill if he thought it unfair. But his threat turned out to be moot: Though many Assembly Republicans and Senate Democrats denounced the plan, it won the support of enough minority-party legislators in each chamber to override a

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potential veto. In the Senate, seven Democrats joined 34 Republicans to provide a 41-18 margin. The Assembly vote was 102-46, with more than twenty Republicans joining the Democratic majority. In neither house could the majority-party members alone have provided a veto-proof margin.

Minority-party legislators are willing to support a plan clearly not in the best interest of their party because the plan makes their individual districts more secure. Maximizing the seats held by the majority party entails concentrating minority-party voters in a smaller number of districts that are more securely held by the minority party.

THE BASIC ISSUE: Race and Poverty

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Both parties were also complicit in efforts to draw districts by race. Democrats either agreed that it was the best way to empower minority voters or feared offending major elements of the party. The GOP, on the other hand, directly benefits from racial gerrymandering, even though minority districts seldom elect Republicans. When ethnic minorities are concentrated in their own districts, the surrounding districts become whiter and thus more likely to elect Republicans. By the same token, three of the Senate Democrats who broke ranks and supported the Republican gerrymander were members of the Black and Puerto Rican Caucus.

If the new gerrymandering will simply extend the terms of present members, what's the great harm in it? For one thing, the less compact a district, the harder it is for its representative in the Legislature to know what his constituents need or want. Creating a district in which a member of a racial minority will surely be elected may reduce the same minority's population in an adjoining district to the point where its wishes can safely be ignored by the district's representative. Creating a district of two widely separated concentrations of voters, joined by a thin line, may force its representative to support the wishes of one concentration while the wishes of the other are unvoiced.

More importantly, all forms of gerrymandering are efforts to predetermine election results, to stack the cards by removing the decision-making process from the voters and giving it instead to those who draw the lines. Such cynical manipulation of the process can only breed cynicism on the part of the voters. If boundaries were drawn according to explicit, enforceable rules, neutral as to party and race, no group or candidate could obtain special advantages—and none could be purposely victimized.

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FORUM

Lawrence M. Mead is an associate professor of politics at New York University and the author of The New Politics of Poverty: The Nonworking Poor in America *(Basic Books). He discussed his book at a recent* City Journal *forum.*

I want to concentrate on the political argument in my book, because this has received virtually no attention. The reviews have talked entirely about the policy argument, which is fairly simple. I'm talking about the long-term poor—those who are poor for years at a stretch, particularly the two central groups among the inner-city poor, namely welfare mothers and nonworking men. Most of the poverty among these groups is due simply to the fact that they are not employed. Only 41 percent of the poor had any earnings at all in 1989 compared with 69 percent for the general public—a striking disproportion. There are still working poor people, but they are vastly outnumbered by the nonworking.

This failure to work cannot be explained by any barrier outside the poor themselves. A number of barriers have been suggested: low wages, lack of jobs, difficulty in arranging child care, racial bias, low skills, disincentives to work attributable to welfare, and so on. A look at the research literature shows that there is little hard evidence for any of these theories. Each explains, at best, only a small part of the problem. In particular, the notion that jobs are lacking in the inner city—the "mismatch theory" associated with William Julius Wilson—has not been verified by most researchers. Jobs are generally available, at least to those seeking them at any given time. Yet somehow those jobs are not taken.

My view is that the barriers remain important, but they primarily explain inequality among workers rather than the failure to work at all. Therefore they don't explain most poverty and dependency. I'm driven to the conclusion that today's poverty is predominantly cultural in origin. I don't mean that poor people lack mainstream values; I think they want to work and obey the law, but they feel that somehow that is impossible in practice. They are dutiful, but defeated. Either they reject available jobs as beneath them, a view common among nonworking men, or they are overwhelmed by the logistics of employment—getting a job, arranging transportation, child care, and so on—a common reaction among welfare mothers. These attitudes are related to the social isolation of the inner city from mainstream society. Also, because of their ethnic histories, poor blacks and Hispanics are less likely to believe opportunities exist, even when it seems they do.

The history of social policy has verified this analysis. For close to thirty years, the country has been trying to solve poverty through various voluntary methods, including training programs, work incentives for welfare mothers, and government jobs. Although some of these programs have worthwhile effects, none has shown a capacity to improve earnings very much because they do not improve work effort. Hence, they do not overcome poverty.

The failure of such programs has recently shifted policy toward what I call the new paternalism. The government has tacitly given up looking for external barriers to employment and has accepted the fact that we must focus on the behavior and lifestyle of the poor themselves. Increasingly, we are attempting to tell poor people how to live, to enforce the values that they already believe in, as well as help them. The Family Support Act of 1988, which requires states to institute workfare programs, is a notable example. We're seeing the same thing in child support policy, homeless shelters, and schools that take a more active role in the lives of children. A number of public institutions are attempting to enforce values. It appears as if lack of work is due to a collapse of social authority, and we have to

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rebuild that authority primarily through public institutions.

What I'm mainly interested in is the implications of all this for American politics. America is used to tackling social problems through changing the scope of government, either by having more government as the left would prefer, or less government as the right would prefer. One either expands government to help the downtrodden or gets government out of the way so that the private sector can do the job. Today's underclass problem, however, is not susceptible to that kind of solution. If, as it appears, joblessness among the long-term poor is not due to a lack of opportunity, then we cannot overcome it simply by doing more or by doing less. Neither the Great Society nor the Reagan era managed to overcome poverty in America, because they could not counter the trend toward less work effort and more detachment from the economy. Without greater effort by the poor themselves, neither more government nor less is going to accomplish very much.

This fact has forced the political debate away from opportunity and toward behavior and character. Underclass poverty violates what I call the "competence assumption," the belief, deeply rooted in American culture, that ordinary people can be counted upon to take care of themselves, above all by working. In the past, poverty did not reflect a lack of competence. In the Thirties, *The Grapes of Wrath* described the Joad family traveling across the country looking for any kind of work, including stoop labor in the fields. The Joads were obviously competent; they merely lacked opportunity. But in our time many fewer poor seem to seek out work in this way.

Often, in fact, the so-called barriers actually reflect limitations of competence. Some people say, for example, that mothers don't work because they can't find child care. This is not a barrier comparable to the collapse of the economy in the Thirties; it is the sort of problem that millions of working women solve every day. Why are poor people unable to solve it? Inevitably the question shifts from society to the personality of the poor. Similarly, liberals sometimes argue that the reason poor people don't work is that wages have fallen and it's no longer worthwhile to work. But middle-class people also faced falling wages in the Seventies and Eighties, and they worked more. Again, the real issue comes down to how much competence we impute to the poor.

This new focus on competence has profoundly changed the political landscape of this country. It is too simple to say that social problems have driven politics to the right in the old sense. It's true that the disorder of our cities is one of the major reasons why Republicans have held the White House for most of the last 25 years. But more importantly, the problems of the long-term poor have created a new kind of politics.

Before 1965, when the first major inner-city riots took place, politics was what I call progressive in character. The main dispute between left and right was about how to maximize opportunity for ordinary people. Liberal movements—labor, civil rights, feminism—represented citizens who claimed to be denied opportunities, but who were basically functional. The central issue in this politics was whether government should intervene to help the claimant groups, or whether we should trust the private marketplace. The question was how to satisfy the demands of *working* people for greater opportunity. Competence was not an issue; it was assumed by both left and right that the claimants were workers who were able to take care of their own self-interest, that they were in this sense deserving.

As the poverty of the underclass became the dominant question, what I call dependen-

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cy politics took over. Today, the leading issue is how to restore order and confidence at the bottom of society. We have a politics of conduct rather then class; the issue is good behavior, not the good society. The claimants now are people who are much less active, usually not employed, not deserving, who cannot make the claims of workers, civil rights marchers, and feminists. I'm not saying that economic issues are dead, but they are no longer at the center of politics. The L.A. riots are affecting politics much more profoundly than the recession did. Social, not economic, issues dominate presidential elections and the national agenda.

In dependency politics the main issues are personal rather then structural. Social problems are seen as arising from behavior rather than lack of opportunity. The question is whether the poor are to be held responsible for their behavior. Liberals tend be hesitant about enforcing values, whereas conservatives are not. The underlying issue is competence. Liberals, I think, are much less likely than conservatives to believe that poor people are competent. Conservative rhetoric assumes that the poor can and should be expected to fulfill normal expectations such as working or obeying the law.

In dependency politics, behavior is an issue, but the structure of society is not. Because of the disorder of the underclass, large questions about the nature of the society, economic justice, and redistribution of income are effectively off the agenda. Until welfare and related issues are dealt with, we're not, contrary to Kevin Phillips, going to have a serious politics of rich and poor.

The shift from progressive to dependency politics has affected both parties. It has forced the left and right to address a different agenda, often to their disadvantage. Conservatives have benefited in an immediate political sense—they're sitting in the White House. But they have not been able to get their traditional economic agenda on the front burner. Conservatives traditionally want to reduce the scale of government, reduce interference in the private economy, and cut taxes and regulation. Ronald Reagan managed to do some of those things, but his cuts in government were quite limited and are likely to prove transient. His greatest achievement in domestic policy was to reform welfare—not exactly what he wanted, but the thing he was driven to do by the nature of the social problem. It is hard to argue for small government in a society where so many poor people have trouble functioning.

The Great Society fell short of liberal expectations as well, because middle-class voters would not support vast new social programs to benefit those who seemed undeserving. Recently, government has done little to counter the trends many see toward greater inequity among workers. The poverty of the inner city has sandbagged traditional social reforms of both the left and right.

Today, one might say, we are in the midst of a second civil war. We are fighting the secession of the poor from mainstream American institutions, particularly the world of work. As in the Civil War, Republicans are the natural leaders because they are willing to invoke public authority against the secessionists. The Democratic Party, in contrast, is divided; part of its constituency is among the secessionists. Just as during the Civil War, Republicans are commissioned to lead the nation, but not to pursue their economic agenda to its full extent. Rather, their purpose is to restore natural community. Until that has been accomplished, other social reforms, either liberal or conservative, are unlikely to take place.■

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A Report Card on State Spending

Steven G. Craig

New Yorkers pay more of their income in taxes than virtually anyone else, yet the state is facing a serious fiscal crisis. Why? The simple answer is because New York also leads the nation in spending. In 1989, for example, Albany spent $2,554 for every man, woman, and child in the state, making it fourth highest in the nation in per capita state spending. Among the largest states, only one spent more per resident than New York: Massachusetts, where a round of severe budget cuts is currently under way. When local spending is included in the equation—a fairer comparison, since much of what local governments spend is dictated by state mandates—New York's ranking jumps from fourth to first.

In order to understand the problem, two questions must be answered. First, to what extent is New York's high level of spending driven by policy choices made in Albany, and to what extent by factors beyond the state's control, such as a higher cost of living or greater levels of need? Second, if New York's priorities are different from those of other states, what parts of the budget consume an unusually high amount of money? To answer these questions, I have performed a careful study of government spending patterns in the 48 contiguous states. (Owing to their geography, Alaska and Hawaii have unique economic circumstances that would skew any comparison, so I have omitted them from the study.)

The results show that New York's spending is low in some categories, such as college education; quite high in many categories; and strikingly high—more than double the national average—in the categories that constitute low-income assistance. Welfare and related programs, in fact, account for more than one-third of the total difference in spending between New York and the average state.

Table 1 shows the total state and local per capita expenditures in 1989, the most recent year for which Census Bureau figures are available, for the ten states with the largest total expenditures: California, New York, Texas, Florida, Pennsylvania, Illinois, Ohio, Michigan, New Jersey, and Massachusetts (see page 26). (These are also the ten most populous states, except for Massachusetts, which ranks 13th in population but spends more than North Carolina, which ranks tenth.) The state and local governments of New York spent $5,473 per person in 1989—a figure more than $1,000 higher than that for Massachusetts, which ranked second in per capita spending among the ten states. Table 1 also shows that the figure for the average state (other than New York) was $3,367 per capita. Per capita government expenditures in New York, therefore, were 63 percent higher than in the average

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TABLE 1

State and Local Expenditures and Average Income

(Dollar figures are per capita)

State	Total Spending		Average Income	Salaries	Pensions	Capital Spending	Debt Service
California	$ 4,090	(7)	$ 19,929	$ 1,421	$ 191	$ 327	$ 157
New York	5,473	(1)	21,075	1,949	253	470	292
Texas	3,029	(36)	15,702	1,079	94	413	205
Florida	3,252	(27)	17,647	1,186	65	474	221
Pennsylvania	3,192	(30)	17,267	1,023	150	294	200
Illinois	3,086	(34)	18,820	1,139	151	345	156
Ohio	3,262	(25)	16,375	1,142	230	308	130
Michigan	3,661	(13)	17,449	1,342	159	320	123
New Jersey	4,072	(8)	23,772	1,446	155	424	281
Massachusetts	4,357	(3)	22,171	1,502	196	382	233
Average	$ 3,367		$ 16,375	$ 1,196	$ 114	$ 395	$ 188
N.Y. percent above average	63 %		29 %	63 %	122 %	19 %	55 %
N.Y. ranking	1		4	1	1	9	4

NOTE: Figures in parentheses are state rankings for total per capita spending among the 48 contiguous United States. "Average" is for 47 states; New York, Alaska, and Hawaii are excluded. States are listed in declining order of aggregate state spending.

SOURCE: U.S. Bureau of the Census, *State Government Finances in 1988-89; Government Finances 1988-89.*

state and 54 percent higher than the average of the other large states.

To what extent is this the result of a higher cost of living in New York? Table 1 attempts to answer this question by showing the per capita income for each state, a reflection of its cost of living. At $21,075, New York's average income is quite high, ranking fourth in the nation, behind Connecticut, New Jersey, and Massachusetts. Even so, it is only 29 percent higher than the nationwide average and 12 percent higher than the average of the other large states. New York's per capita spending is 26 percent of its per capita income; for the other 47 states, the figure is 21 percent. Thus, even though they make more money, New Yorkers see substantially more of their income go to state and local government than do residents of other states. Cost of living, therefore, does not in itself account for New York's high government expenditures, which consume a disproportionate share of its citizens' income.

Table 1 also shows several general components of government spending: salaries and pensions of government employees, capital spending, and debt service. In most of these categories, the results are fairly unsurprising. New York ranks first in the nation for government salaries, spending $1,949 per capita. But this is 63 percent higher than average, precisely the same proportion as for overall

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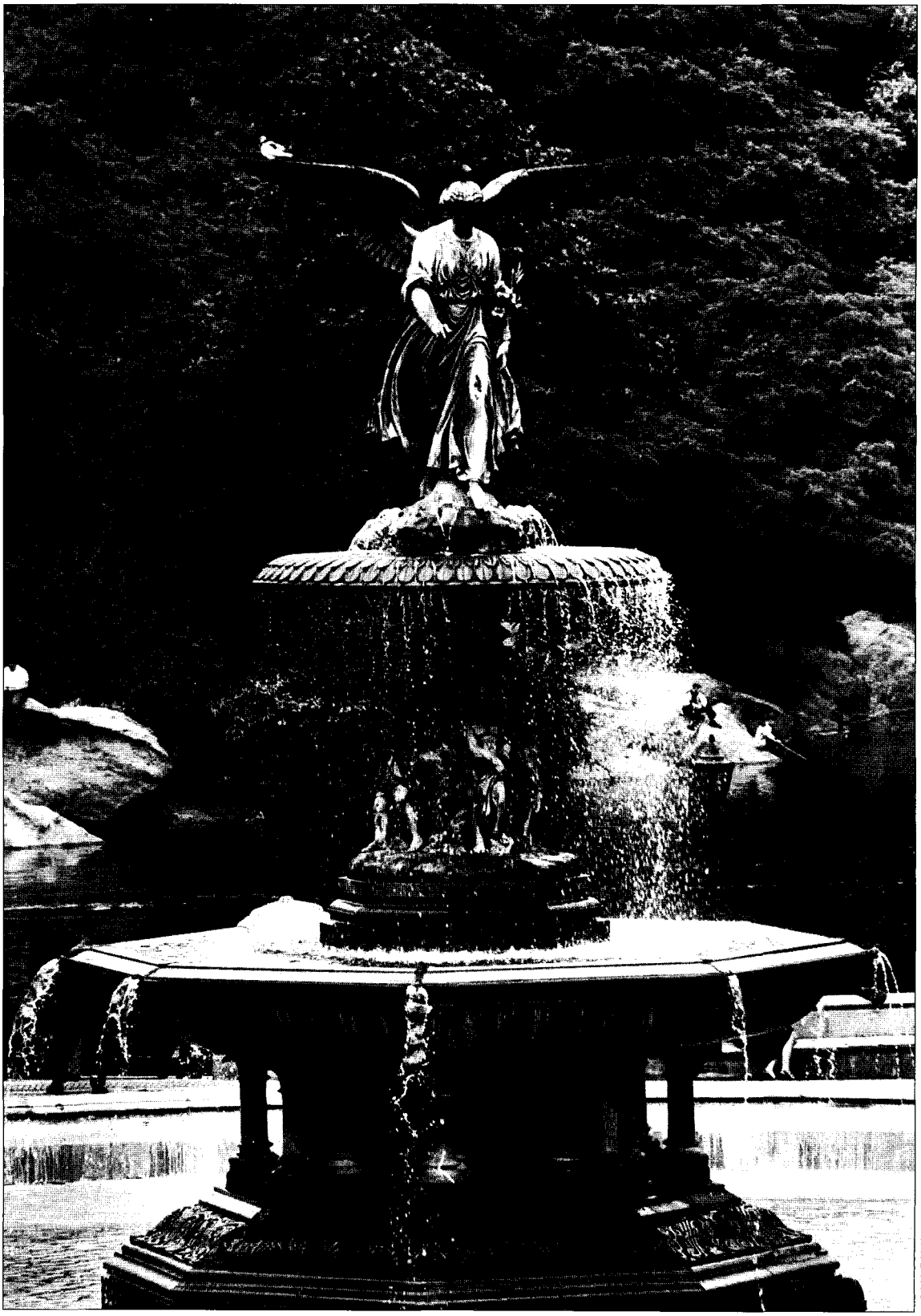

BETHESDA FOUNTAIN, CENTRAL PARK

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spending. That is, New York spends a lot more than most states on government salaries, but disproportionately generous salaries or levels of government employment do not appear to be at the root of New York's high spending. Rather, they largely reflect the fact that a large government needs a large number of people to administer it.

New York also ranks first for pensions at $253 per capita, or 122 percent more than the average state. This seems quite high. But pension expenditures reflect the rates of government employment in past decades. Thus, states with recent large population growth, such as Texas and Florida, have very low per capita expenditures on pensions ($94 and $65, respectively). New York's pension expenditures are only 46 percent higher than the average of the six large states with relatively stable populations (Pennsylvania, Illinois, Ohio, Michigan, New Jersey, and Massachusetts). Total government spending in New York is 52 percent higher than in these states, so pension expenditures merely reflect New York's high overall rate of government spending. (Since pensions are paid out of separate trust funds, they are not included in the overall spending totals.)

New York ranks only ninth in the nation for capital expenditures. While capital spending in New York is moderately higher (by 19 percent) than in the average state, this is a far smaller difference than for overall spending. In fact, governments in the average state spend 12 percent of their budgets on capital projects—one-third more than in New York. Faster-growing states in the South and West must spend more expanding their infrastructure to meet the demands of a burgeoning population. Still, given New York's overall high expenditures, capital projects are a relatively low priority.

New York spends 55 percent more per capita than the average state on debt service, reflecting the overall high rate of government borrowing. Debt expense, however, ought to reflect the rate of capital expenditure: A state should borrow money only to build large infrastructure projects that cannot be funded as part of the current budget. New York's debt expenses are 62 percent of its capital expenditures; for the average state, the figure is only 48 percent. This discrepancy suggests that New York has been willing to incur excessive debt given the limited infrastructure improvements it has initiated.

Breakdown of Services

Table 2 shows levels of state and local spending on a variety of particular services: highways, police, fire protection, jails, parks and recreation, and the "other" category. These six categories comprise most specific areas of government spending, except education and low-income assistance, which are considered in more detail below.

What do these numbers tell us? For police, fire protection, and parks, the difference between New York and the average state is fairly close to the 63 percent aggregate figure (for police and fire, somewhat higher; for parks, somewhat lower). New York's generally high levels of government spending, then, are reflected in these areas but not disproportionately affected by them.

Three categories stand out in Table 2, however: highways, jails, and "other." New York's governments actually spend 8 percent less per capita on highways than those of the average state. Twenty-five states spend more than New York does. Since most highway construction and maintenance falls under the category of capital expenditures, this reflects the low priority New York gives to its infrastructure generally.

New York's expenditures on jails and prisons, at $162 per capita, are 138 percent higher than those of the average state. One possible reason for this is that New York has seen a high rate of prison construction

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TABLE 2

State and Local Expenditures, by Service

(Dollar figures are per capita)

State	Police	Fire	Parks	Highways	Jails	Other
California	$ 143	$ 62	$ 64	$ 141	$ 124	$ 230
New York	174	70	68	248	162	345
Texas	89	38	36	248	74	70
Florida	81	23	24	226	57	192
Pennsylvania	135	54	79	222	97	118
Michigan	125	52	78	240	57	130
Illinois	96	50	35	186	66	105
Ohio	118	39	46	193	107	163
New Jersey	144	47	62	271	91	370
Massachusetts	130	91	48	187	88	278
Average	$ 97	$ 42	$ 48	$ 271	$ 68	$ 138
N.Y. percent above average	81 %	66 %	42 %	–8 %	138 %	150 %
N.Y. ranking	1	5	8	26	1	2

NOTE: "Average" is for 47 states; New York, Alaska, and Hawaii are excluded. States are listed in declining order of aggregate state spending.

SOURCE: U.S. Bureau of the Census, *State Government Finances in 1988-89; Government Finances 1988-89.*

in recent years, as have many other states. New York's Wicks Law, however, increases the cost of building prisons and other public facilities in the state. (See "Politics and the Wicks Law," page 55.) The cost of operating prisons in New York might also be higher than elsewhere, in part because of state judicial rulings that establish prisoners' rights not recognized in other states.

The "other" category includes all types of spending not elsewhere classified (see table notes). New York's "other" expenditures are $345 per capita, or 150 percent higher than the average state, and second only to New Jersey. Since the services covered by this category are not specified, we cannot draw any conclusions from the numbers, except that New York has seen fit to offer a variety of government services that most other states do not view as necessary.

Skimping on Schools

One area in which New York's government expenditures are not particularly high is education. As Table 3 shows, New York spends only $231 per capita on college education, compared with $288 per capita in the average state (see page 30). New York ranks only 35th in the nation in its per capita expenditures on public universities. This is quite anomalous: If New York spent the same 63 percent above average in this category as it does on all services combined, its higher-education expenditure would be $469 per capita. Of course, the expenditures could be low simply because many

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TABLE 3

State and Local Education Spending

	COLLEGE	ELEMENTARY/SECONDARY		
STATE	PER CAPITA	PER CAPITA	PER PUBLIC SCHOOL STUDENT	PERCENT IN PRIVATE SCHOOLS
California	$316	$738	$3,317	13 %
New York	231	1,030	3,139	21
Texas	293	737	1,867	5
Florida	152	768	2,507	14
Pennsylvania	187	679	2,291	22
Michigan	233	645	1,888	12
Illinois	255	718	2,006	18
Ohio	365	827	2,263	14
New Jersey	245	920	3,333	19
Massachusetts	201	741	2,467	15
Average	$ 288	$ 721	$ 2,285	11 %
N.Y. percent above average	–20 %	43 %	37 %	93 %
N.Y. ranking	35	2	6	3

NOTE: Denominator for per-student figures includes only students in public elementary or secondary schools. "Average" is for 47 states; New York, Alaska, and Hawaii are excluded.) States are listed in declining order of aggregate state spending.

SOURCE: U.S. Bureau of the Census, *State Government Finances in 1988-89; Government Finances 1988-89.* National Center for Education Statistics, *Digest of Education Statistics, 1988-89.*

students choose to attend private or out-of-state colleges.

These options are less freely available for those who have not yet reached college. It is more disturbing, therefore, that expenditures on elementary and secondary education are also not particularly high in New York. The per capita expenditure is $1,030, the second highest in the country and 43 percent higher than the average state. But this is somewhat lower than the 63 percent difference in total spending. When we examine spending on a per student rather than per capita basis, New York only ranks sixth in the nation, and its spending is just 37 percent more than average.

Of course, spending more money does not ensure better education. Many low-spending school districts do a fine job of teaching children. Since school spending in New York State is disproportionately low compared with other government expenditures, however, it is reasonable to conclude that New York's state and local officials have made public education a relatively low priority. One indication of this, also shown in Table 3, is the high proportion of New York's schoolchildren attending private school—21 percent, or nearly twice the figure for the average state. In only two other states have more parents opted to keep their children out of the public schools.

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TABLE 4

State and Local Spending on Low-Income Assistance

(Dollar figures are per capita)

State	Welfare	Housing	Hospitals	Health	Total	
California	$467	$87	$206	$93	$853	(4)
New York	795	131	355	120	1,401	(1)
Texas	198	25	172	44	439	(47)
Florida	232	33	169	102	536	(35)
Pennsylvania	403	58	86	67	614	(20)
Illinois	363	58	106	66	593	(26)
Ohio	433	50	137	92	712	(12)
Michigan	489	28	183	149	849	(6)
New Jersey	428	61	121	77	687	(13)
Massachusetts	609	156	225	139	1,129	(2)
Average	$ 327	$ 49	$ 169	$ 76	$ 621	
N.Y. percent above average	143%	167%	109%	58%	126%	
N.Y. ranking	1	2	3	4	1	

NOTE: Figures in parentheses are state rankings for total per capita spending on low-income assistance among the 48 contiguous United States. "Average" is for 47 states; New York, Alaska, and Hawaii are excluded. States are listed in declining order of aggregate state spending.

SOURCE: U.S. Bureau of the Census, *State Government Finances in 1988-89; Government Finances 1988-89.*

Welfare

Thus far, we have seen that New York spends considerably more than the average state in most areas of the budget, and somewhat less in a few areas, but not enough to account for the huge difference in total spending. Only in jails and "other" expenditures have New York's spending levels turned out to be far higher than the average state's—and only by a combined total of $301 per capita, a fraction of the $2,106 difference in total expenditures.

What else, then, accounts for New York's extraordinarily high spending? Aid to the poor is responsible for a large portion. Table 4 shows expenditures in four categories of low-income assistance: welfare (including Medicaid, Aid to Families with Dependent Children [AFDC], and other means-tested benefits), housing (including community development), public hospitals (most of whose clients are poor), and other health programs.

New York spends $795 per capita on welfare, the most in the nation. That is 143 percent more than the $327 spent by the average state, and $186 more than the second-ranking state, Massachusetts, spends. In housing, New York ranks second only to Massachusetts and spends $131 per capita, 167 percent more than the average state. New York's spending on hospitals is $355 per capita, also more than double the average state's expenditure. And on health ser-

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TABLE 5

State and Local Welfare Expenditures Adjusted for Economic and Demographic Factors

(Dollar figures are per capita)

State	Actual Expenditure	"Typical" Expenditure	State-Specific Expenditure
California	$467	$354	$113
New York	795	643	152
Texas	198	192	6
Florida	232	354	–122
Pennsylvania	403	362	41
Illinois	363	323	40
Ohio	433	393	40
Michigan	489	391	98
New Jersey	428	461	–33
Massachusetts	609	547	62
Average	$ 327	$ 327	$ 0
N.Y. percent above average	143 %	98 %	n/a
N.Y. ranking	1	1	1

NOTE: "'Typical' Expenditure" is the expected per capita spending level for welfare programs, after adjusting for a variety of economic and demographic factors detailed in the text. "Average" is for 47 states; New York, Alaska, and Hawaii are excluded. States are listed in declining order of aggregate state spending.

SOURCE: U.S. Bureau of the Census, *State Government Finances in 1988-89; Government Finances 1988-89.*

vices, which include clinics, immunization programs, and public health agencies other than hospitals, New York ranks fourth, spending $120 per capita, or 58 percent more than the average state.

The total of these four categories is $1,401 for every man, woman, and child in New York, or a staggering $25.1 billion in total. The average state spends $621 per capita, significantly less than half of what New York spends. The second-highest-spending state, Massachusetts, spends a total of $1,129, or nearly 20 percent less than New York. Moreover, as noted earlier, Massachusetts is mired in a fiscal crisis of its own and is in the midst of serious budget cuts. The overall difference in spending between New York and the average state is $2,106. The four categories of low-income assistance account for $780, or more than 37 percent, of this difference.

What if spending levels on welfare, housing, hospitals, and health followed the pattern of other spending and were 63 percent higher than average? In that case, the total of these categories would be only $1,012, a reduction of nearly $400 per capita ($7 billion total).

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TABLE NOTES

Spending figures include both operating and capital expenditures, and are per capita figures except where noted. All categories except pensions are subsets of the total spending category. Utility expenditures, including mass transit (except direct governmental subsidies) are excluded from this analysis. Utilities require separate study because some utilities in some states or localities are provided by public agencies, while others are provided by private companies. Moreover, the budgetary impact of utilities is clouded because they generate considerable revenue.

CATEGORIES

TABLE 1

Total Spending: All state and local government expenditure, with state aid to cities counted only once. Expenditures for utilities (as noted above), government liquor stores, and trust funds are excluded.

Average Income: Statewide income (from all sources) per resident.

Salaries: Gross salaries paid to government employees, before deductions for income tax, retirement contributions, or other purposes. Excludes any in-kind benefits.

Pensions: Payments from government-administered trust funds, not including administrative costs. This category is not included in general expenditures.

Capital Spending: Direct expenditure for construction of buildings, roads, and other improvements; for purchase of equipment, land, and existing structures; and for payment on capital leases.

Debt Service: Amount paid for the use of borrowed money (excluding utility debt).

TABLE 2

Highways: Construction, maintenance, and operation of highways, streets, and related structures. Includes toll highways, bridges, tunnels, ferries, street lighting, and snow and ice removal. Excludes highway policing and traffic control, counted under the police category.

Police: Law enforcement and traffic safety. Includes police patrols and communications, crime prevention activities, detention and custody of defendants awaiting trial, traffic safety, and vehicular inspection.

Fire: Fire-fighting organization and auxiliary service; fire inspection and investigation; support of volunteer fire forces; and other fire prevention activities.

Jails: Prisons, reformatories, houses and other correctional institutions.

Parks: Museums, playgrounds, pools, parks, stadiums, zoos, convention centers, and special recreation facilities.

Other: Expenses not elsewhere classified. This includes general local government support, miscellaneous commercial activities, and other and unallocable general government expenditures.

TABLE 3

College: Higher education expenditures, including gross expenditures for auxiliary activities such as dormitories, dining halls, and bookstores operated by public colleges and universities.

Elementary/Secondary: Total direct expenditures on elementary and secondary education by state and local governments. Denominator for per-student figures is the total number of students in public schools statewide.

Percent in Private Schools: Proportion of elementary and secondary school students enrolled in private schools statewide.

TABLE 4

Welfare: Cash or commodity assistance based on need. Includes, among other things, AFDC and most Medicaid expenditures (vendor medical payments). Also includes payments to private and public welfare agencies (except public hospitals).

Housing: Construction and operation of housing and redevelopment projects.

Hospitals: Financing, construction, acquisition, maintenance, and operation of hospital facilities; provision of hospital care; and support of public or private hospitals.

Health: Out-patient health services other than hospital care.

TABLE 5

Categories are fully explained in the text.

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One might object that welfare programs such as AFDC and Medicaid are the creations of the Federal Government, not the states. But states have considerable discretion as to which programs they will participate in. Moreover, the Federal Government establishes only the minimum permissible standards for eligibility and the size of welfare grants; states generally are free to widen eligibility or provide more benefits.

A more troubling difficulty in comparing welfare expenditures is the influence of demographic and economic factors that are beyond the control of the individual states. A state's welfare expenditures could be expected to vary, for example, depending on the amount of federal aid it receives and the poverty rate of its population. Accounting for differences in such factors requires a detailed statistical study. I have performed such a study for the welfare category (but not for housing, hospitals, and health), using a technique known as regression analysis. In brief, regression analysis examines data over a period of years (in this case from 1966 to 1985) to determine which factors account for how much of the change in a variable (in this case welfare spending). My analysis, shown in Table 5, adjusts for a wide variety of different factors:

- Federal aid, both to states and to households: This includes both welfare aid (AFDC, Medicaid, and Food Stamps) and nonwelfare aid.
- Demographic factors: total population; the prevalence of female-headed households; the proportion of high school graduates, college graduates, urban dwellers, and senior citizens.
- Economic factors: statewide per capita income, poverty rate, and unemployment rate; the percentage of the work force in manufacturing industries; a state-specific cost-of-living index; the welfare expenditures of neighboring states.

The regression analysis, which also takes into account changes in federal policy over the years, tells us what portion of each state's welfare expenditures can be attributed to the combination of these factors. This figure is shown in Table 5 under the heading "Typical Expenditure." This is the amount the average state would spend if it had the same characteristics as the state under consideration.

Table 5 also shows the "State-Specific Expenditure"—that is, the portion of welfare spending attributable to factors other than those considered in the regression. Since the regression adjusted for such a wide variety of possible influences, the state-specific amount is almost entirely due to policy decisions made at the state (or local) level. For some states, a negative number is shown; this means the state spends less than would a typical state with similar characteristics. Because the regression measures each state's deviation from the mean, the average state-specific expenditure is zero.

New York not only has the highest overall welfare spending in the country; it also has the highest state-specific portion. The difference between New York and the average state—even after adjusting for demographic and economic factors—is $152 per capita. To put it another way: Out of New York's $14.3 billion total annual welfare budget, $2.7 billion is purely discretionary, the result of lawmakers in New York deciding to offer benefits more generous than those in the average state. If the other low-income assistance categories—housing, hospitals, and health—were taken into account, it is likely that this number would be substantially higher. Even given its demographic and economic peculiarities, New York could substantially cut its spending on low-income expenditures and be no less generous than the average state.

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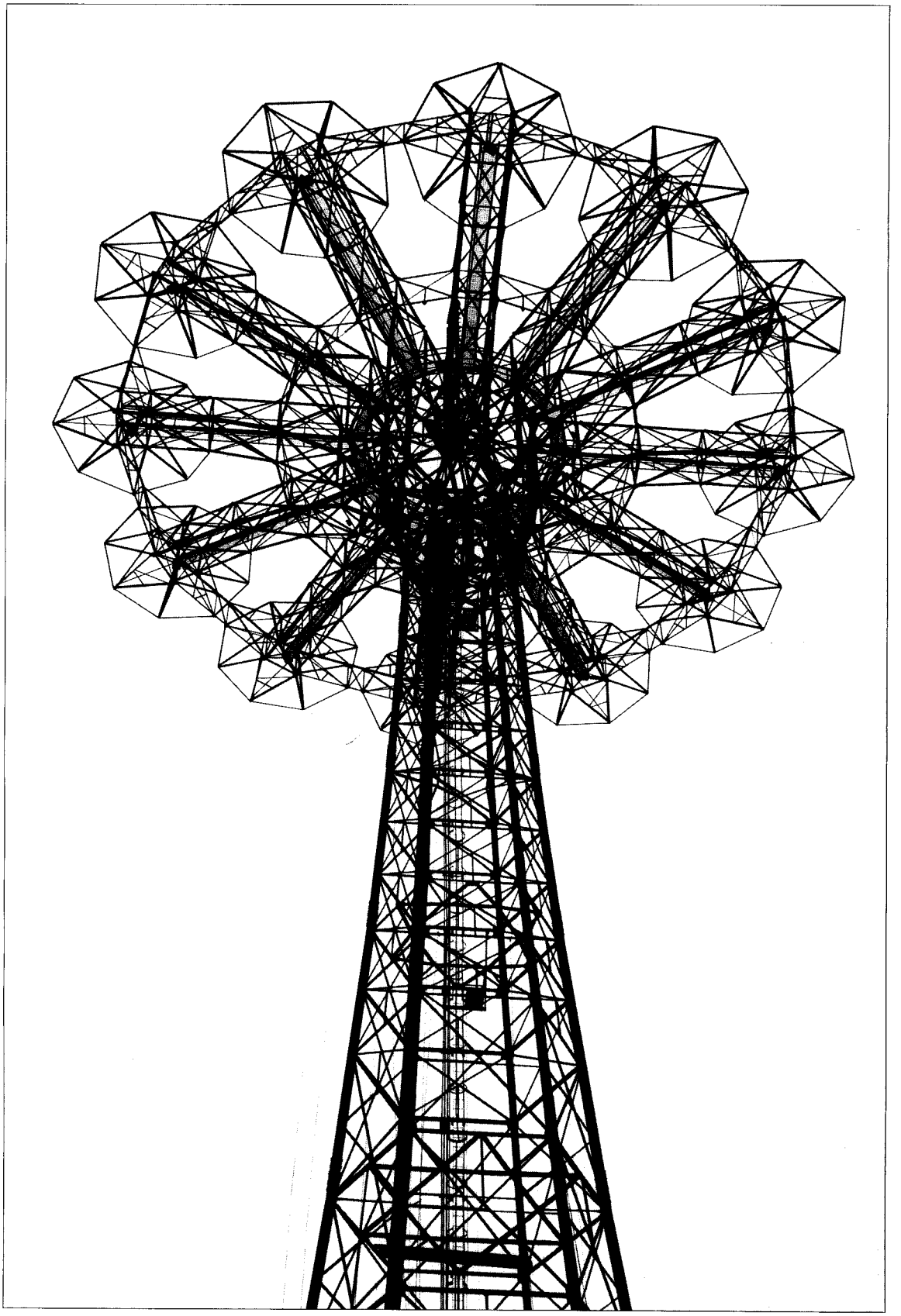

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Conclusion

These numbers offer only a description of New York's budget priorities; reasonable people may differ on whether the state's current priorities are proper or how they should be changed. But two conclusions seem inescapable.

The first is that New York's spending priorities are shortsighted. This is evident in the comparison between two pairs of spending areas: capital and debt, and education and welfare. The state's easy willingness to borrow money and its comparatively stingy capital expenditures burden future New Yorkers with a huge debt and few benefits to show for it. The combination of high welfare spending and low education spending suggests that New York's policymakers are responding to social problems with stopgap measures rather than serious efforts to break the cycle of dependency that afflicts the poor and burdens the taxpayer. Education and capital spending both represent investments in the state's future; in New York, unfortunately, the burdens of the past and the expediency of the present seem to dictate the government's priorities.

Yet there is also good news: New York remains one of the wealthiest states in the country. Because its residents make more money than most Americans, state and local governments in the Empire State have more funds at their disposal than their counterparts in any other state. If this money were spent wisely, New Yorkers could enjoy a level of essential government services unparalleled in the United States. Alternatively, the state's taxes could be cut substantially. Either option would make New York a more attractive place to live and work—and brighten the state's prospects as the twenty-first century approaches. ■

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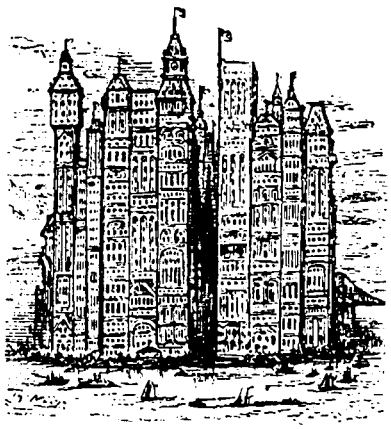

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Opening the Door to Low-Cost Housing

Randall K. Filer

Consider the dilemma of a homeless man trying to get off the streets of New York. Renting a vacant studio apartment might cost $300 in cash for the first month's rent. Add a security deposit and an allowance for furniture and equipment, and it would cost nearly $1,000 to move from a city shelter to an apartment. Such a sum is beyond the means of someone with minimal skills and serious personal problems; so too, would be monthly rent payments. Is it surprising, then, that most homeless men opt for drugs or alcohol rather than work? With the chasm separating them from the bottom end of the housing market, they can hardly be blamed for giving up, for resigning themselves to a life of dependency on the street or in a shelter.

The housing market needs to be changed so that its lowest rung is no longer out of reach for the homeless. The existence of a "housing gap"—the failure of the market to provide housing of a type and quality that the very poor can afford—is not a natural or inevitable phenomenon. Indeed, until recently, the private market provided a range of housing options for individuals with very low incomes. But well-intentioned city regulations have made these forms of housing nearly extinct.

In New York City a century ago, even the most tenuous attachment to the labor market enabled a man to secure minimal housing. If he worked harder or acquired more skills, the resulting increase in his wages would immediately enable him to improve the conditions under which he lived. There was no unbridgeable gap between a man's condition and the next level of comfort to which he could aspire; a man could see a direct link between acting in a socially responsible manner—staying sober and working—and the quality of his life.

In 1893, the U.S. Commissioner of Labor surveyed almost thirty thousand residents of New York's slums. The median wage of men in these neighborhoods was $9.32 a week, while the wage at the tenth percentile was $5.30 a week (that is, the bottom 10 percent of slum-dwellers earned $5.30 or less). Even this modest income, however, was enough to rent housing.

At the very bottom of the market, as little as a nickel a night (about $1.60 in today's terms) rented a few square feet of floor space in a "flophouse" (a cavernous room with walls, a ceiling, and with luck, heat). One step up, costing perhaps a dime a night ($3.20), were dormitories. Here a man could rent a cot with bedding in a large open room. Typically, he would also be provided with a locker for his personal belongings and a place to bathe and shave. Physical conditions in these dormitories superficially resembled those in today's municipal shelters. There were, however, important

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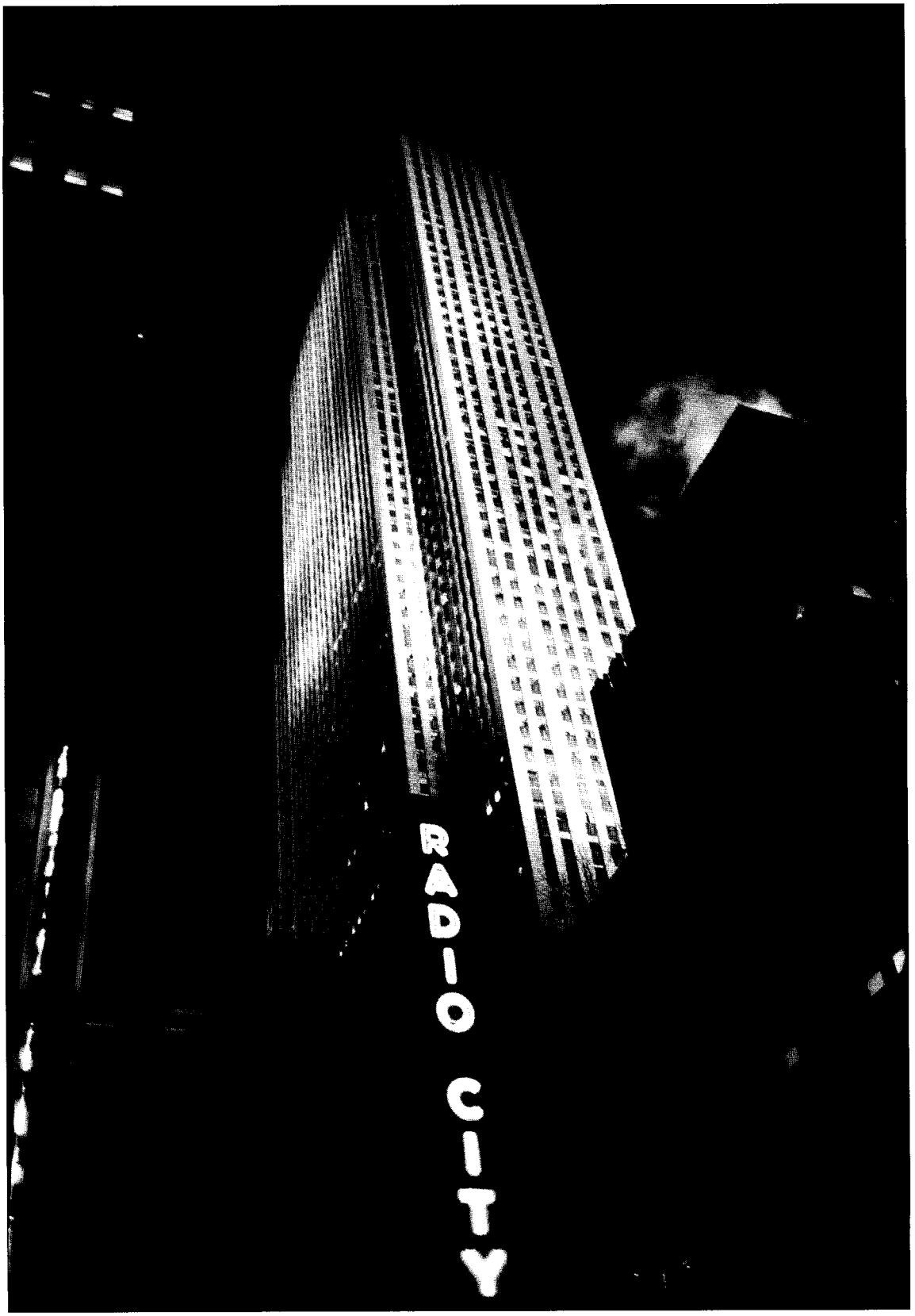

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differences. Because dormitories were privately owned businesses, operators could exclude disruptive individuals who did not conform to the rules governing behavior—in striking contrast with current shelters that have "few rules and almost none that [are] enforced," in the words of the *New York Times*. These private dormitories had to attract willing customers in order to make a profit. If any establishment became known as dirty or unsafe, it would rapidly lose clients and be forced to improve. Thus, the quality of the shelter had to be the highest that could be provided for its price, or the establishment would go out of business. Again, this is in sharp contrast with today's shelter system, in which quality is enforced only by a series of cumbersome and restrictive court suits. (For those who would not conform to the rules in the private dormitories or who could not come up with even 25 cents a week, there was also a "Municipal Lodging House," which along with an annex on an East River pier, housed about 2,100 men each night in January 1915.)

What the dormitories did not provide was privacy. This was available for slightly more in "cage" hotels costing between 15 and 25 cents a night ($4.80 to $8.00 today). These facilities were large rooms subdivided by partial walls into cubicles that provided each man with his own space. Those with more resources (25 cents or more a night, or $8.00 and up today) could rent rooms in lodging houses. These equivalents to today's Single Room Occupancy hotels (SROs) provided private rooms with varying amenities, depending on the price paid. As an alternative, those who were willing to give up independence in favor of meals had the option of renting rooms in boarding houses. Here rents might be $3.00 to $5.00 a week. The importance of these forms of housing can be seen in the 1893 survey, which indicated that 11.5 percent of the residents of New York's slums were either boarders or lodgers.

Those who were ready to rent apartments could also find dwellings within their earning capacity. Remember that a man earning at the tenth percentile of the wage distribution of slum residents had an income of $5.30 a week. These earnings compare with a *median* rent of $1.40 a week for one-room and $1.85 a week for two-room apartments in these same neighborhoods.

Single men had a strong order of preference among these various alternatives: They preferred lodging and boarding houses to cages, cages to dormitories, dormitories to flops, and flops to the city's shelters. Men could act on these preferences by moving as their incomes increased.

In today's New York, however, many of these housing choices are no longer available. City regulations designed to eliminate these classes of housing have left the very poor only the choice between a shelter or the street.

Since the Wagner and Lindsay administrations of the mid-Sixties, it has been explicit city policy to eliminate SROs, which an aide to the mayor of New York in 1965, quoted in *Newsweek*, called "a vestigial remnant of a past generation." SRO accommodations typically consisted of a room with shared toilet facilities, although in some cases the rooms had private sinks and toilets and shared kitchen facilities. All new housing, with the exception of conventional hotels, had to have minimum room sizes and full bath and kitchen facilities for the exclusive use of the unit. Moreover, city policy encouraged the conversion of existing SROs: The J-51 tax abatement program was instigated in 1955 specifically to reward the conversion of SRO units into Class A apartments. As a result of these policies, more than 85 percent of the 142,000 SRO hotel rooms that were available to New Yorkers in 1960 have disappeared.

Even as early as the turn of the century, New York had far more rules and regulations

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A series of easy reforms could reinvigorate the lower end of the private housing market

for operators of flophouses, cage hotels, lodging houses, and boarding houses than other cities. City inspectors enforced regulations specifying such things as how many residents there could be per sink, what materials bed linens must be made of, and how many cubic feet of space the room must contain for each resident.

These regulations arose from a noble desire to improve the lot of the poor. They were, however, counterproductive. The market for flophouses and cage hotels was highly competitive, with hundreds of providers. If conditions in any hotel were worse than those in other hotels charging the same price, such a hotel would find it difficult to attract customers. Similarly, any hotel with unusually good conditions would entice customers away from its rivals in the same price range. The reason for poor conditions was not that the providers were unregulated, but rather that it was impossible to improve the facilities without increasing costs beyond what the customers could or would pay. Enforcing regulations that mandate better-quality housing than a group of customers can afford will eliminate that class of housing, leaving consumers with a "choice" between better housing that is beyond their means and no housing at all.

Americans often remark on the apparently low number of homeless in European cities such as London. One reason is that in London several thousand men each night rent beds in "working men's hostels." Hostels are congregant, barracks-style housing. But unlike New York's public shelters, they have far fewer people per room, and because they are privately run, they are able to enforce behavioral rules that make them much safer and more pleasant for their customers. New York City has a host of unused warehouses, industrial facilities, and even piers that could easily be adapted for use as hostels and cage hotels were it legal to do so.

Of course, the attempt to improve quality through regulation is not the only factor inhibiting the ability of the private market to provide a full range of housing options. A host of interest groups serve to prevent creative use of properties. Imagine the gauntlet of community review boards, zoning boards, inspection and licensing agencies, and other administrative bodies that would confront an entrepreneur seeking to open a cage hotel (or even a new SRO) in the city today. Construction codes, heavily influenced by unionized workers' desire to protect their jobs by limiting technological progress, also take their toll. A series of easy reforms, however, could reinvigorate the lower end of the private housing market.

The most important thing the city can do to revive the low-cost segment of the private housing market is to stop standing in the way of those who would develop such housing. Excessive regulation of the housing market is a primary reason that rent-to-income ratios have risen so drastically in the slums of New York over the past century even though real incomes have risen substantially. A recent report by the City Council's Legislative Advisory Commission on the Homeless isolated 35 pages of changes that would have to be made in New York City's codes to allow for construction of SRO-like units for homeless adults. (For example, under current law, new SROs in many areas of the city would be required to provide off-street parking—for their homeless tenants' cars.) It is

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encouraging that after initial hostility, the Mayor's office is now engaged in discussions on these suggestions.

But while the changes suggested by the City Council commission provide a good starting point, they do not go far enough in freeing the market. What is needed is an independent commission to perform a thorough audit of the city's legal housing environment. This audit should focus not on obstacles to building a particular type of unit, but rather on what prevents any type of unit for which there is a demand from being built. Among the areas of interest to such a commission would be zoning regulations, building codes, and housing maintenance codes.

As a first step, the city should eliminate almost all limits on the location of housing. New York is one of the few cities that practices single-use rather than highest-use zoning. That is, a site zoned for one purpose cannot be used for another, even one less disruptive to the surrounding community. While there is an obvious rationale for zoning industry out of residential neighborhoods, there is no reason to question the location of any type of housing. Thus, anyone who wants to open any form of for-profit housing, from flophouse to luxury high-rise, should be able to do so anywhere he thinks he can cover his costs. Being market-driven, these decisions will avoid the politically charged atmosphere surrounding siting of city-built facilities.

In addition, the city should repeal all regulations, aside from minimal health and safety rules, mandating facilities and characteristics required of various types of housing. As we have seen, the effect of such rules is to increase the price of housing until it is out of the reach of the poorest would-be tenants.

One of the success stories among recent attempts to open housing for the poor and homeless was San Diego's Baltic Inn, a profit-making SRO hotel built by private developers in 1987. The Baltics' rooms are 10-by-12-feet with private toilet and cooking facilities and shared showers. The project almost wasn't built because its developers had difficulty obtaining necessary building code waivers. Eventually, they were allowed waivers from rules that prohibit kitchens in small units and require toilet facilities to be in a separate room within the apartment. Additional waivers were granted from other rules such as fire codes that required more doors to the street than were consistent with security needs. Finally, the developers were allowed a greater density (smaller units and more units) than normally permitted.

Once the authorities allowed the Baltic to be built, it provided clear evidence that it is possible for the private market to respond to the housing needs of today's poor. Even without changes in the materials provisions of the building codes (to enable more economical construction techniques), design and density code waivers enabled the operators of the Baltic to build 206 rooms for less than $15,000 each, including land costs, and then rent them for between $200 and $285 per month.

Could a similar facility succeed in New York? Although construction costs in the city today are about 30 percent higher than they were in San Diego in 1987, interest rates have fallen by between three and four percentage points. Thus, the cost of an SRO identical to the Baltic in New York today would be almost the same as what the Baltic actually cost. With conventional assumptions about operating costs and equity share in financing, and allowing $500,000 to buy the land, rental of the Baltic's 206 units at the $240 a month welfare shelter allowance available to all impoverished, resourceless single men in New York would provide the owners a return on their investment of more than 10 percent. Thus, no public subsidy should be required to induce developers to undertake Baltic-like projects in New York.

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If the city wanted to make such projects even more attractive, it could provide vacant land for a nominal price and lower real estate taxes through programs similar to the J-51 abatement that was responsible for the destruction of much of the city's SRO stock in the first place. Further relaxation of building codes would not only lower the costs of new construction, but might also allow the renovation of existing structures for SRO use at even lower costs per unit.

As part of a streamlined regulatory environment, the city could speed up the license and permit process for those who want to build or operate various forms of housing. The fact that builders now have to pay "expediters" to walk paperwork through multiple city bureaucracies is unconscionable when the city is facing a housing shortage.

New York City and State need to revise their liability rules. Since SROs and cage hotels would generally be treated as temporary residences, they fall under the severe liability requirements of various innkeepers' laws. In many instances, for example, these laws hold operators liable for injuries inflicted by guests on other guests. In today's litigious environment, what rational person would want to run even the slightest risk that he would be held liable for the actions of an indigent, possibly disturbed, near-homeless man? An easy solution would be to exempt such establishments from civil liability, compensating victims for actual losses (but not punitive damages) from a public fund. Of course, innkeepers could still be held accountable for criminal negligence if they did not take reasonable security measures.

Finally, the city and state should recognize that measures designed to preserve certain housing options may actually reduce their availability. Although the city's blanket prohibition on the conversion of SRO rooms to other uses was struck down by the U.S. Supreme Court in 1989, current regulations still pose obstacles to SRO conversion. While these laws may for a time slow down the rate of conversion, their principal effect is to discourage people from opening new SROs, lest they, too, be frozen in this use. What is needed is an explicit city policy that conversion—both to and from SRO status—will be allowed whenever it makes economic sense. It is important to realize that gentrification is not the cause of the decline in SRO rooms in the past thirty years. In a free market, replacement units for the poor would be built (or converted from other uses) in different neighborhoods. The problem in New York is that regulatory and other conditions prevent the creation of this replacement low-cost housing.

SRO rooms should, moreover, be eliminated from the city's hotel rent control laws, which are even more stringent than those governing apartments. Such laws cannot significantly reduce rents charged for rooms. They can, however, make developers less likely to build them, since they would be unable to profit from changing market conditions.

Taken together, these and similar reforms would reinvigorate the supply of low-cost housing. Other steps can help ensure that demand matches this newly liberated supply side of the housing market. The Home Relief shelter allowance can be freed up to allow its use for alternative housing through direct-payment vouchers that do not require leases. Welfare recipients could also be permitted to use their rental allowances to sublet rooms in private dwellings.

Not only the desperately poor stand to benefit from the expansion of low-cost housing in New York City. Young adults just starting out would no longer be forced to live at home until they could afford traditional apartments. Students would no longer be deterred from attending college in New York by the prohibitive task of finding affordable housing. Thus, the city should resist the

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temptation to limit access to SROs and other forms of low-cost housing to the homeless or any other particular subpopulation.

If opening up the low end of the housing market would benefit the poorest New Yorkers, so would a similar expansion of the labor market. Given their personal histories, which often include drug abuse or mental illness, it is difficult to believe that a substantial number of the homeless lack only a job offer to make them productive, tax-paying citizens. Yet it is also clear that many are capable of and interested in certain types of work—witness the ease with which the *Daily News* was able to find street vendors during the recent strike at that paper. A major contributor to homelessness among single men is a significant reduction in the availability of casual day-labor jobs. Gone are the shape-up gangs on the docks and in the rail yards. Although the evidence strongly suggests that today's homeless men will respond to day-labor jobs when they are available, most jobs require employees to commit to a long-term employment relationship. Many men with drug, alcohol, or mental problems may be able to show up for work most days, while finding it impossible to do so every day. With an opportunity for day work, such men would be able to earn most of their own keep. Faced with an insistence on "perfect" behavior, however, they may not be able to enter the labor market at all. Casual labor would have an even more important effect: These men would learn from experience that if they stay sober and work on a given day, they live better that night. They would finally have an incentive to behave in a more responsible manner and to take control of their own destiny.

It is unlikely that the private sector will recreate large numbers of casual employment opportunities in New York. Hence, this is an area where public action may be beneficial. The city currently spends about $40 a night to house and feed each homeless man in a congregate barracks shelter, plus expenses for medical, training, and counseling services. While the consent decrees agreed to by the city currently make it impossible to require

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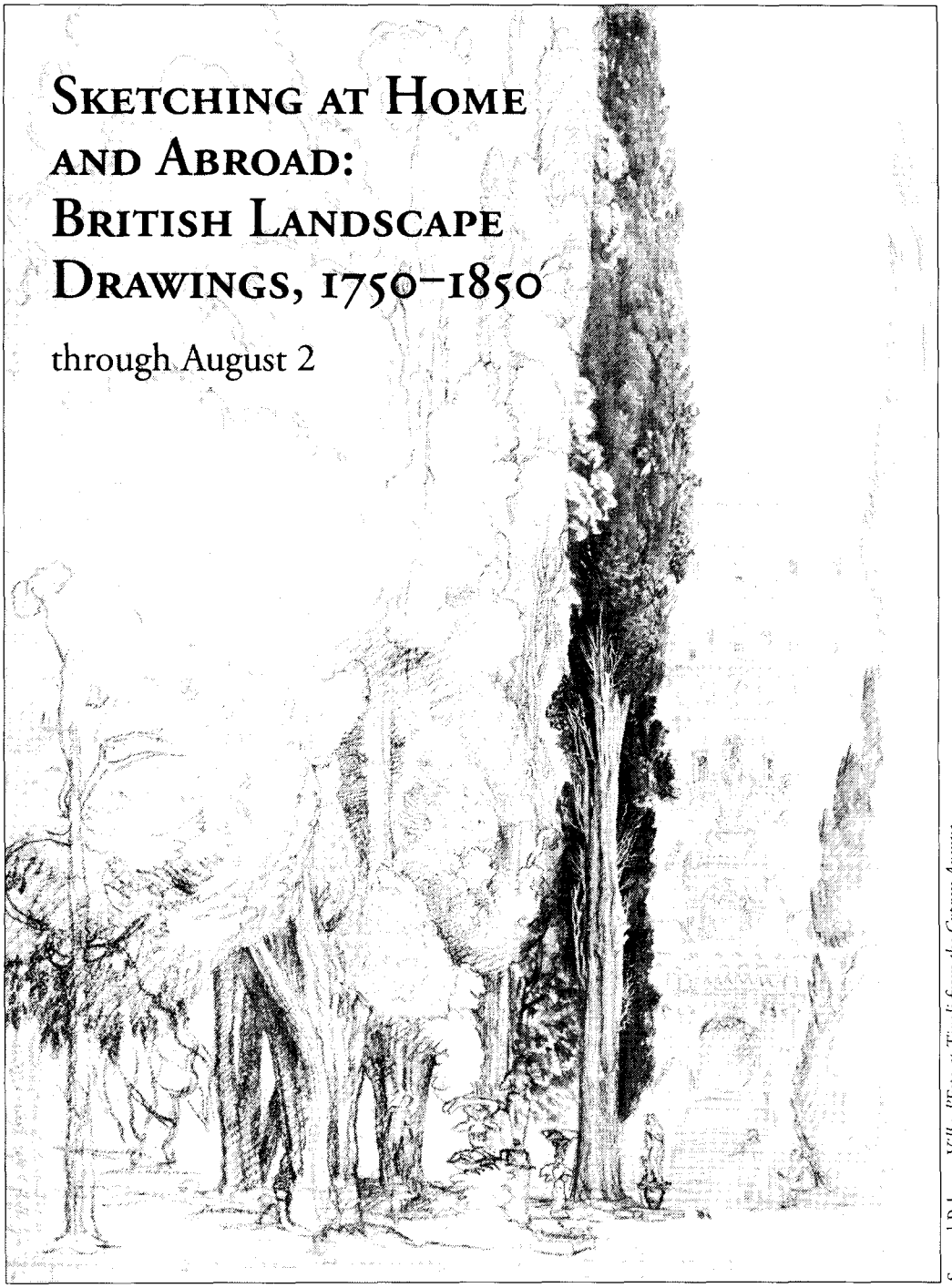

Samuel Palmer, *Villa d'Este at Tivoli from the Cypress Avenue*

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work in return for shelter, there is nothing preventing the city from offering work to those who want it. What is needed is an incentive to accept such an offer.

One possibility is for the city to implement a multilevel shelter program. It could continue to provide shelters in which any man or woman could sleep with no conditions. These shelters would resemble the current barracks, with facilities as minimal as is required by common decency. Residents could then, however, be given the opportunity to "earn" an improvement in their conditions. If the private market (perhaps in combination with city construction or subsidies) had in place a system of cage and SRO hotels, the city could take the $40 it would spend anyway and make a proposition to each homeless man in its shelters every morning: "You can stay here again tonight, just like last night—but if you stay sober today and work at whatever you are asked to do (perhaps a combination of several hours of labor and an additional few hours of literacy or job-training classes), at the end of the day we will give you $5 in cash, a chit worth $10 at any restaurant in the city (so that you can choose what and where you want to eat), and a housing chit sufficient to purchase private space in a cage-type hotel. You can make this choice again tomorrow. If you show up for work and classes every day for a week, we will give you a voucher to cover the following full week in an SRO where you can obtain a private room. Find a job and work at it for a set number of months (while paying for your SRO room out of your earnings) and complete an agreed-on educational program, and we will stake you to the security deposit and first month's rent for a low-cost studio apartment as well as giving you an allowance to furnish that apartment."

Thus, the city would provide a carefully constructed set of steps that a man could follow to work his way back into "normal" living. Since the hotels would be able to enforce strict behavioral rules (there would always be the city shelter for those who chose not to comply), men who took advantage of the offer would immediately begin to live better, both in physical and emotional terms. The plan would reinforce the idea that actions have consequences and that responsible actions can improve one's life.

For the programs to work, the hotels used must be available to both participants in the program and the general public, so that a man does not lose his shelter if he finds a private-sector job. In addition, the jobs must be less desirable than those at the lowest rung of the private market, ensuring that participants have an incentive to leave them and search for employment, and so that those in the private sector do not have an incentive to become "homeless" in order to take advantage of the job opportunities. Thus, it is important that the job pay in chits rather than in cash and that the total value of a day's work be less than a man could earn (after Social Security taxes) at a minimum-wage job. Many nonprofit shelters currently have a "work for shelter" requirement without paying cash incomes or running afoul of minimum wage jobs. Surely such an idea could be extended to a voluntary city program.

It matters little what work is assigned to those accepting this offer. What matters is that a direct, immediate link exists between a man's actions and the quality of his life—that he has an opportunity to better his condition. Repeated over and over, one day at a time, perhaps this lesson will be learned. Of course, if the work also produces visible results, it can improve the self-image of the program's participants while altering the attitude of the city's taxpayers toward the homeless and programs designed to help them.

In one recent month, almost 7,900 homeless single individuals received emergency shelter from New York City and various nonprofit groups each night. Allowing

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for those who sleep in the streets, parks, subway stations, and other public places, somewhere between ten thousand and twenty thousand single individuals are homeless each night in the city.

Suppose that half these men accept the conditions of this work-for-shelter program. If the city administration were willing to stand up to the municipal unions—or if these unions would put the interest of the community above a selfish demand for more workers the city cannot afford—a work force of five thousand to ten thousand men could make a substantial contribution to public life, especially in these times of service cuts. Imagine crews of potential shelter residents voluntarily setting forth every morning to sweep, paint, and plant New York, guard its subway turnstiles against fare evaders, separate its garbage for recycling, and generally minister to its neglected public spaces. Imagine these men coming home every night knowing that they could sleep and eat, for that night at least, in places far better than a shelter, and knowing that they had made this possible by their own choices and actions. All this at no additional cost to the city.

It is clear that most homeless men are not "just like the rest of us except for some bad breaks." Many have drug or alcohol problems or are mentally ill. Even so, the severity of the homeless crisis in New York has been exacerbated by the city's policies. The striking fact is that a few simple changes in public policy would improve the living conditions of many homeless, giving them an opportunity to assume control of their destinies and permanently escape homelessness. ■

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How to Keep New York's Water Running

Peter Judd and Roger Starr

The price of water in New York is going up: Water and sewer charges have doubled since 1986 and are expected to continue increasing at an annual rate of 10 to 15 percent. As a result of increasing demand and federal clean-water mandates, the water system needs billions of dollars to maintain water quality, reduce sewer discharges into the water around New York, complete a third tunnel to carry water through the city, add new resources to the supply, and perhaps most costly of all, filter all of it. To help pay for this and to encourage responsible use of water, the city has embarked upon a water metering program, so New Yorkers will directly bear the costs of the water they use.

The metering program, however, is dangerously flawed in its treatment of apartment buildings. It is nearly impossible to meter an individual apartment, so one meter is installed for the entire building, and the landlord pays the bill. Although these bills are far higher than under the old billing system, rent regulation prevents landlords from passing their increased expenses on to tenants—many of whom could not afford to pay anyway. The likely result is a new housing abandonment crisis that would leave thousands of New Yorkers homeless and add to the inventory of city-owned buildings, which already costs the city some $1 billion a year to maintain.

The approaching tragedy begins with a blessing: New York City has one of the world's finest gravity-fed municipal water systems. Its storage reservoirs straddle the Hudson River, draining the Croton River in Westchester County, the mighty Delaware on the west slope of the Catskills, and a number of smaller streams on the mountain range's east slope. The city's reservoirs were designed to be large enough to supply the city and suburbs with all the water they would need to survive a drought as long as the worst of the last hundred years.

But these assets have depreciated. The Croton River system, which provides 10 percent of the city's water, once was surrounded by deep country. It is now encroached upon by developments whose sanitary systems leach effluents into the drainage areas around the reservoirs. Still of acceptable quality, the Croton water has nevertheless been tainted and is expected to get worse. Since there is no way to roll back the development that created Croton's problems, the city is building a plant at a cost of just under a half billion dollars to filter the Croton supply. The filtration plant will cost as much as $60 million a year to operate, nearly 10 percent of the total 1991 operating budget for water.

Although development in the Catskill region has lagged behind Westchester's,

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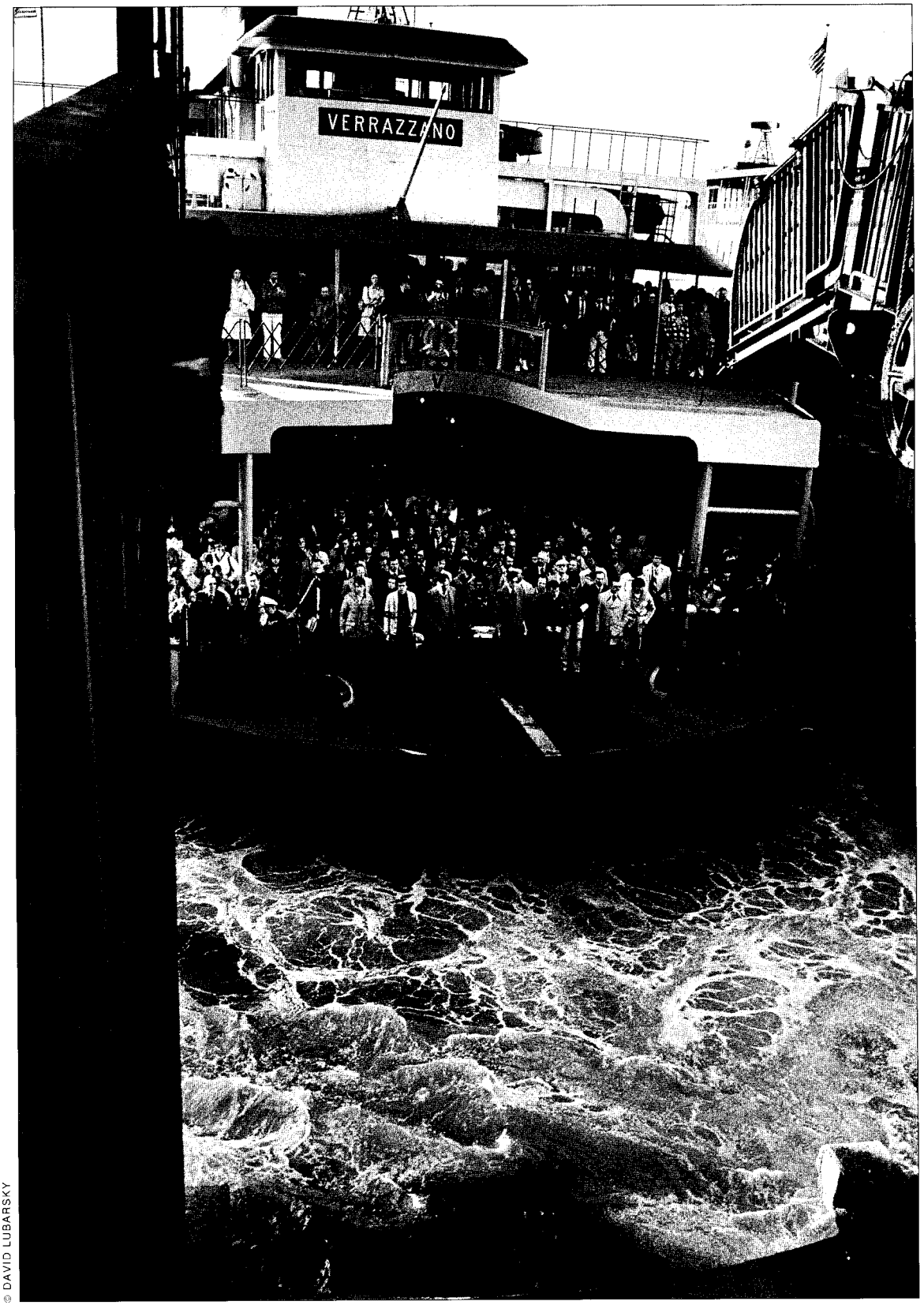

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STATEN ISLAND FERRY

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there are signs that the city may soon have to make a major capital investment there as well. Inadequately treated sewage is currently flowing into streams that feed the Catskill and Delaware reservoir systems. New roads have been built in many sections of the reservoir country, hastening storm water drainage and washing salt (applied to the roads for deicing) into the streams and reservoirs. Runoff containing animal wastes and pesticides is also a problem in farming regions.

The Federal Safe Drinking Water Act makes the pressure more immediate. It requires all municipal surface water systems to be filtered regardless of how clean the water is to begin with. The Environmental Protection Agency has mitigated the burden this requirement imposes, by allowing states to grant waivers to municipalities. The state agency that administers the law in New York has put the city on notice to prove by the end of the year that its water is and will remain safe enough to drink. Filtering the Catskill and Delaware supplies might cost as much as $6 billion, on top of the water and sewer system's current ten-year capital budget of $10 billion, as well as $800 million a year to run the plants thereafter. By contrast, in 1991 the entire cost of operating the water and sewer systems was $650 million.

An alternate scheme has been proposed by Albert Appleton, commissioner of the city's Department of Environmental Protection. He would attempt to control land use by regulation, acquisition of development rights, and outright purchase of strategic sites in the Catskill region. No one knows how much the Appleton plan would cost, but the figure of $1 billion has been floated by some supporters. The Appleton plan would almost surely be cheaper than filtration. But it relies on land use controls and discharge limitations that have been bitterly opposed by many residents of the area. Nor will it necessarily keep the water pure enough to meet the Federal Government's requirements, which may be overly strict.

The city's water authorities face substantial expenditures on the sewage side as well. The city has already been forced to commit $4 billion between 1992 and 1996—more than 70 percent of the capital budget for the water and sewer system in those years—to meet federal mandates to reduce the release of pollutants into the Hudson and East rivers.

Another $1.6 billion is being spent to dispose of sludge on land. The Federal Government prohibited deep sea disposal after medical wastes washed up on New Jersey beaches in 1988—a phenomenon that had nothing to do with sludge. New York City has been dumping sludge 101 miles out at sea in an area away from the continental shelf, said by a number of oceanographers to be a biological "desert" entirely acceptable for the purpose. Yet the Federal Government has not weighed the adverse environmental effects of "dewatering" the sludge in electricity-powered shakers and disposing of it on land. This is a dubious way to "save the planet."

Even apart from these federal mandates, however, the water system's capital expenses are likely to grow because of a long-term trend toward increased water consumption, a series of unusual dry spells in recent years, and the possibility of other communities—particularly on Long Island, where the existing water supply is threatened by pollution—turning to the city for water. Nassau and Suffolk counties draw their water from deep wells, which are subject to contamination by salt water and wastewater discharges into the sandy soils of the island. The fast-growing upstate counties abutting the water tunnels and supply all have statutory rights to the city's water. The costs of adding new reservoirs would be very large; the political opposition, even to such relatively mild measures as tap-

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Filtering the Catskill and Delaware water supplies might cost as much as $6 billion

ping the Hudson River in the spring freshet, has been and will be formidable.

One way to reduce the need for expanding the water supply is to reduce the demand. Serious conservation efforts have never been undertaken in New York except during droughts. Moreover, each past expansion of the water supply has been followed by higher levels of use. New Yorkers use 20 percent more water per capita than other Americans, about a third more than Canadians, and twice as much as Europeans. There is thus a large potential for conservation. The leading method to control demand is the meter: The user pays for the water he uses instead of the flat fee that is common in the absence of meters. (Sewer charges in New York City are a percent of the water charge; formerly smaller, they are now well over 100 percent of the water charge because of the high cost of pollution control.) Universal metering began six years ago in New York City; prior to 1986 only commercial and industrial properties were metered. Metering replaces the misleadingly termed "frontage" method of billing, a formula based on such factors as the number of apartments, number of fixtures, and height of the building, as well as the length of the front lot line for which it is named. It was intended to represent average water use for a given building, but it now appears that it reflects lower-than-average consumption.

Almost half of the one- and two-family houses in the city are now metered, but less than 10 percent of the over 100,000 apartment buildings are. In those buildings, the potential for conservation may not be unlocked by the "discipline of the meter." This is borne out by the records of a number of apartment buildings where a meter has been in operation for a year or more. The households in these buildings use more water than expected, more than the national average. By contrast, consumption figures in metered single-family homes are coming in substantially below the level estimated by the frontage formula, suggesting that billing on the basis of consumption does encourage conservation—if the consumer is the one paying the bills. In an apartment house, a single meter for the entire building does not pinpoint the consumption of individuals and provides residents no incentive to be frugal in their water use. Thus the meter in the basement of a multiunit building fails almost as dismally as a flat rate to determine who is wasting water and make him pay for it.

The impracticality of metering the water use of apartments is a particular problem for New York because of the city's high number of apartment dwellers. In Chicago, for example, less than half of the city's families live in apartments; in New York, some 70 percent do.

Observations of the first apartment houses to be metered show an average use of 292 gallons per apartment per day, about 30 percent more than what the frontage rate would have paid for. This translates into 113 gallons per person per day at home, considerably higher than the national average of 94 gallons. The divergence between buildings is striking: The heaviest users of water consume over 700 percent more per apartment than those on the low end. Yet because apartment buildings use almost 50 percent of the water sent to the city, they are crucial to any conservation effort.

The obvious answer is to install meters for each individual apartment. Unfortunately, this is a prohibitively complicated and

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expensive task. Water, unlike electricity and gas, cannot be delivered through a single connection. In a typical residential building, each apartment is provided with water by several separate vertical supply lines called "risers." Each fixture has its own set of risers, one for hot and one for cold water; at every floor each riser typically connects with more than one apartment. In a modest apartment, containing kitchen and bathroom sinks, a shower, and a toilet, there could be as many as seven separate lines requiring meters. There are systems being used in Europe to meter such intakes and read them automatically. But because of the cost of installation, including the price of placing meters within the apartment, it is likely to be a long time before they are introduced in New York. (The devices might also have short lives, given the ingenuity of some building residents.)

Another problem with metering apartment buildings is that the heaviest water users turn out to be those who can least afford to pay higher rates. After metering was introduced, officials realized that the frontage formula had provided for a huge subsidy from buildings with well-to-do residents to those with poorer households. Results of meter readings show that the highest household water use is in low-income neighborhoods, in part because of large families and overcrowding. Consumption of four hundred to six hundred gallons per apartment per day—up to twice the average amount—is found in buildings renovated under the recently active city-sponsored programs, and a number of private owners have reported similar levels of use.

Current city policy makes building owners solely responsible for water and sewer charges in apartment houses. There are some things a landlord can do to bring down water consumption: maintain his fixtures well, replace wasteful toilets and shower heads with new water-efficient ones, and engage in aggressive management: having the super visit each apartment to check for leaks at least once a month and responding immediately to reported leaks. But such surveillance is not always possible, and few owners in the most vulnerable buildings have the ability to keep up such efforts, given the other pressures they face.

A keen super might be able to reduce a building's water use by 10 to 20 percent. In many cases, however, this is not enough. A building on Grand Street in Manhattan, for example, received an annual bill for $30,000 based on metered use; its bill based on frontage had been $6,000. A thirty-apartment building on Catherine Street in Manhattan saw its bill skyrocket from $4,750 to $21,000 when metering began. The Community Housing Improvement Program, an association of small landlords, reports that water and sewer rates went up 258 percent in three Bronx buildings during the first year of metering. This translates to a monthly increase of $28 to $42 per apartment—a substantial sum for apartments whose rents range from $350 to $500 a month—which cannot be passed on to tenants because of rent regulation or low tenant incomes.

Water and sewer costs have increased at an annual rate of 15 percent or more. Combined with property taxes, which have risen by 22 percent for the average building over the last four years, they are threatening the economic viability of many buildings in low-income neighborhoods. Generally the landlord cannot find relief by raising rents, either because of regulation or because the tenants cannot pay. A rule of thumb is that for a healthy building, operating costs consume about 60 percent of rental income, the balance being available for mortgage payments and return on investment. In rent stabilized buildings, according to the Rent Guidelines Board, the average share of rental income devoted to operating costs is 72 percent. Thus it is already difficult to

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operate such a building without losing money. With water and sewer rates rising at double-digit levels, the already vulnerable economies of these buildings will deteriorate further, especially as new expenses such as filtration and sludge disposal drive rates still higher. Building owners will do what they did at other times when the rigidities of rent control rendered them incapable of earning money on their investment: They will bleed their properties as long as they can and finally let the city take them over for nonpayment of taxes or, in this case, of water and sewer fees.

Water and sewer costs are threatening the economic viability of many buildings in low-income neighborhoods

Building owners have already turned to the city and pointed out that they are unable to meet their payments under the metered water system; even if they could legally pass the cost on, their tenants would also be unable to pay. The largest owner group, the Rent Stabilization Association, has even filed a lawsuit demanding that the metering program be stopped, in part because it does not promote conservation. The authorities have so far granted moratoriums permitting owners of residential buildings to continue paying on the frontage formula (meaning, of course, that since they are not paying the full costs of what they use, the difference must be made up by others).

Such stopgap solutions can last only so long. The time is coming within the next five or six years when all city buildings will be metered and rising water charges can no longer be put off by interim and temporary deferrals. In a city already plagued by a shortage of low-cost housing and by a substantial population in temporary shelters, a serious new loss of housing would be a tragedy. Avoiding it will require changes in local, state, and federal policies and regulations, and in the administration of environmental, water, and sewer functions within the city. Still, several things can be done.

The first is to establish, to the degree practicable, the principle that individuals are accountable for the water they use. An effective beginning would be to change the housing statutes to require that water and sewer charges be assessed as a separate item on the rental bill. The Water Board should establish a normal expected level of water use for each residential building. Landlords would be required to pass the cost or savings on to tenants by assessing rent surcharges or granting credits depending on whether water use exceeded this baseline during a given month. By forcefully reminding apartment residents as a group of the cost of water, such a policy would likely spur conservation. The political opposition to such a proposal would be strong, however.

More fundamental changes are necessary as well. Water and wastewater treatment are increasingly expensive, and should no longer be considered a municipal service, but a utility with a monopoly product—just like the electric and gas utilities. The water and sewer operations in the city should be established by state statute as independent public utilities, either as privately owned companies or independent public authorities. Two separate utilities should be established: one responsible for the water supply, wastewater treatment, and large-scale capital projects; the other for water distribution within the city, including maintenance of the mains and service lines and customer relations. Such a division between supply and distribution is a common arrangement in

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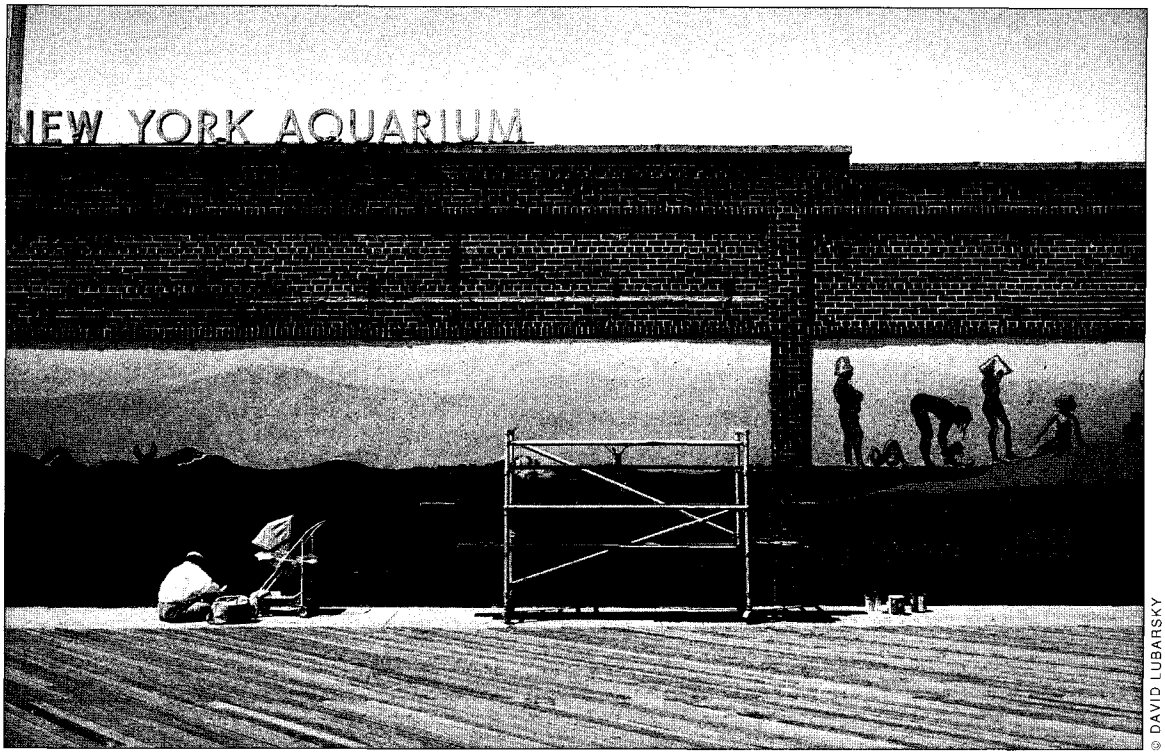

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both energy and water utilities throughout the nation.

The distribution utility would purchase water from the supplier and be provided a rate of return on its investments, creating incentives to improve cash flow through efficient and timely billing and maintenance of hydrants and mains, which would reduce waste. The discipline of "profit" would reduce the costs of the system. It is an obvious discipline on privately owned utilities, but can be extended to public authorities selling a product as well. Public utility status for the city's water and sewer operations would also contribute to long-term professional stability for the skilled staffs necessary to maintain and rebuild the system.

Water and sewer services are a monopoly and require regulation; since the present and future costs of the system are so enormous, and the impact on customers has such potential for devastation, approval of rates, expense schedules, and debt requires sophisticated skills. Fortunately, New York State has an outstanding Public Service Commission, which could apply the lessons of other utilities to regulating the water provider. The water utilities should regard reduction of water consumption as one of their primary goals. Thus, the Public Service Commission could institute demand-management regulations, similar to those imposed on electric utilities, requiring the water company or authority to conserve water at the point of use by investing in water-efficient appliances such as low-flow toilets, which use 1.6 gallons per flush, compared with five to six gallons for conventional toilets. To meet the needs of low-income consumers, the commission could institute subsidized "lifeline" rates similar to those offered by local phone companies. In the long run, such skilled oversight of the costs of water and sewer service would give customers confidence that rate increases were being held to a minimum and

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that cross-subsidies between users were strictly controlled.

It is particularly important that private users not be required to subsidize the use of water and sewers by the city: its offices, housing developments (including tax-foreclosed in rem housing), parks, street cleaners, and subsidiary authorities such as the Housing Authority and Health and Hospitals Corporation. Currently the city pays for its water according to a formula that may underestimate use even more than frontage does. By underpaying, the city and public authorities make building owners pay for costs that should be borne by the general tax base. This practice is not fair and it risks further damage to the city's housing stock, already made vulnerable by the rapid increase in water charges.

These organizational changes would restrain the growth in the cost of the water and sewer systems, but they would not solve many of the enormous problems that are foreseeable. The potential capital costs of filtration and new supply may simply be too high to be met by charges against the housing costs of New Yorkers, particularly those who live in apartments.

An assumption behind the establishment of the "self-funding" system of the Water Finance Authority and the Water Board was that the residential population, who use three-quarters of the water in the city, can afford to pay in full for the water system by user charges. But the enormous costs imposed by present and proposed federal mandates mean that this is no longer a viable premise.

It is unjust for the Federal Government to establish ever-tighter standards for drinking water quality and sewage discharge, and then force municipalities to bear the full costs of meeting those standards. The city should lobby Congress to legislate aid to municipalities forced to filter their water supply. The government has supported wastewater treatment plants by giving similar grants to municipalities. The city should cite the effect on housing of the $10 billion of mandated expenditures in the next five years as evidence of the environmental and social effects of proposed environmental improvement measures.

Water quality has declined because of increases in the rural and suburban population. New York City, a municipality that built its reservoirs years ago in clean, underpopulated areas, cannot fairly be expected to bear these costs. Nor can the owners or tenants of buildings in low-income areas. The national Safe Drinking Water Act should therefore be amended, providing funds to assist municipalities when filtering becomes necessary because of population growth outside the city.

It is possible that all of these proposed measures would not bridge the gap between what can be raised from occupants of residential housing and the financial needs of the water system. Supplementation from the city's general tax revenues may be necessary to keep low-income buildings whose residents use large amounts of water from falling into abandonment. The threat to the soundness of New York's water supply is not yet fully grasped by most New Yorkers, but neither is the threat that water metering poses to what remains of the housing stock. The city is nearly alone in its fight to bring water consumption and water maintenance under control. But that must quickly change if we want to ensure that our future water needs will be met while averting the destruction of a significant portion of our privately owned housing. ■

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Politics and the Wicks Law

Joseph B. Rose

Why does the State Legislature steadfastly refuse to repeal an unnecessary law that costs at least $300 million in tax money each year? This is what the Wicks Law, a statute governing public construction projects, costs New York's state and local governments, according to a 1987 study by the New York State Division of the Budget. Despite the persistent entreaties of the governor, municipal officials, newspaper editorial boards, and civic groups, New York State's legislators persist in defending this law. They are beholden, it seems, to the narrow interest groups that benefit from Wicks—specialized building contractors and organized crime.

The Wicks Law causes the hemorrhage of public funds by preventing public construction projects from being efficiently managed. Normally, when a private developer plans a building, he hires a general contractor to deliver a finished project for an agreed-upon price. The general contractor then hires subcontractors with particular expertise in specialized construction tasks such as plumbing or wiring. The general contractor supervises the subcontractors, making sure their work is properly coordinated, on time, and up to specifications.

The Wicks Law requires that government agencies in New York State (except some state and local authorities, which are exempt) directly hire four separate contractors for general construction, plumbing, electrical work, and heating and ventilation. No contractor has authority over the others, so government officials must then try to coordinate the various contractors. The result is usually chaos. In one notorious incident, an entire public housing project was delayed while two contractors argued about whose job it was to sweep the floor.

Under the single-contract method, this sort of problem is avoided by vesting authority in the general contractor, who in his own financial interest, carefully selects subcontractors and replaces those that prove troublesome. Wicks, on the other hand, mandates that every contract be awarded to the lowest "responsible" bidder. The requirement that bidders be responsible lacks teeth, for companies can be declared irresponsible only after a contract is bid—and when they are, they often sue. Constrained by the threat of costly, disruptive litigation, public agencies are unable to screen out contractors with a history of conflicts and delays.

The Wicks Law raises government costs in a variety of ways. One is the administrative burden of preparing and bidding at least four individual contracts for each project. While not factored into any particular project's budget, the cost of employing engineers and bid administrators to prepare, review, and award each contract is significant. Robert Landsman, deputy commissioner of

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METROPOLITAN LIFE BUILDING

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New York City's Department of General Services, which oversees most city construction, estimates that complying with Wicks consumes between 25 and 30 percent of his division's resources, or as much as $9 million out of a total annual budget of $29.7 million. Since the Wicks Law applies to any project costing more than $50,000 per year (a threshold that has not been adjusted for inflation since 1964), even small office renovations can trigger an extensive contract review process that includes the state attorney general and comptroller.

In addition to the increased administrative expense, the initial bids themselves are often higher under Wicks than they would be under a single-contract system. Delays caused by Wicks raise the cost of doing business, and contractors compensate by bidding higher. Many refuse to bid on public projects at all, further raising costs by diminishing competition among contractors.

Policymakers have known for years that Wicks raises initial bids for construction. In 1964, for example, Brooklyn's Downstate Teaching Hospital was bid on both a multiple- and single-contract basis, to see which would come in cheaper. (The project was built by the State University Construction Fund, which is exempt from the Wicks Law.) The multiple-contract bids were 8.7 percent higher than the single-contract ones—a difference of more than $2 million (in 1964 dollars) on a $25 million project. Likewise, a 1980 New York City Housing Authority study found that bids for housing construction were as much as one-third lower under the single-contract method. The West Tremont project in the Bronx, for example, was bid at $45,677 per unit under the Wicks procedure; Brooklyn's Bedford Stuyvesant project, which was bid the same year under a single contract, came in at only $34,213 per unit.

Not only are bids higher under the Wicks Law, but the complex construction process makes cost overruns more likely. Government agencies constrained by Wicks must devise carefully coordinated schedules to ensure that various tasks are completed in the proper order. For example, installation of a heating duct by one contractor demands that the appropriate wall openings be prepared by another contractor, who must accommodate the electrical wiring configurations of yet another contractor. If only one of these contractors fails to adhere to the original schedule, the whole process may collapse.

Because government agencies are in effect unable to screen out future bids from contractors on the basis of past performance, individual contractors have no incentive to perform their jobs responsibly. As a result, minor construction problems can turn into disasters. This is illustrated by the case of a housing project built in the Bronx in 1988. The city's Department of Housing Preservation and Development was rehabilitating a group of abandoned buildings on Southern Boulevard to house homeless families. In November, the HPD field supervisor instructed the plumbing contractor to drain the plumbing system so that the pipes wouldn't freeze. Although this is a simple procedure, the plumber balked, arguing that it was the general contractor's responsibility. The general contractor claimed it was the plumber's job. In fact, each company had a contractual obligation to protect against damage from the elements. But while they argued, the pipes froze in December, damaging the plumbing system, walls, ceilings, hardwood floors, tiles, kitchen cabinets, and paint. The project was finished a year behind schedule and cost half a million dollars more than had been bid.

Many responsible contractors refuse to bid on public projects for fear of being forced to work with disreputable or unreliable companies. Public agencies, however,

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have little choice. One firm, which had 85 outstanding lawsuits against the city from earlier jobs, won a contract to rebuild the Betsy Head Pool in Brooklyn. The contractor then challenged every item on the project as being beyond the originally outlined scope of work. Under a single-contract system, no general contractor would have hired a subcontractor with such a history.

Delays are the most obvious result of poor construction coordination. A 1971 report by New York City's Office of Construction estimated that projects subject to Wicks took an average of 20 percent longer to complete than the original schedule provided. In fact, most major projects were delayed for more than a year. In 1971, the New York City Housing Authority found that a simple apartment rehabilitation job took 134 days under Wicks, compared with only 103 days under single-contract bidding.

While contractors squabble about who is responsible for what work, time lapses and inflation drive up the costs. Many contractors then file damage claims against the government, claiming that the delays have increased their expenses and forced them to forgo other job opportunities. These claims are often legitimate, and the courts have upheld the government's liability for them—even when the fault lies entirely with one of the contractors.

In 1986, the electrical contractor working on the Queens Sanitation Garage walked off the job. Although the electrical contract constituted only 3 percent of the total work, the job was stalled while the city tried to arrange an alternative. Unwieldy contractor replacement procedures gave the disruptive contractor leverage in negotiating how it would allow the city to complete the work. The contractor threatened to sue to prevent another contractor from being hired. In order to avoid the threatened lawsuit, the city had to cut a deal with the original contractor in which its electricians were paid for the work they did not do. Wicks-related problems contributed to a delay of some three-and-a-half years in the project's completion.

Knowing that delay can dramatically escalate costs, individual contractors may threaten to stall the project in order to extort "change orders"—contract modifications that grant them additional funds. Large multiple-contract projects often have cost overruns of 15 percent or higher. A 1986 study by the state's Office of General Services found that the average multiple-contract project cost 5.8 percent more than the original bid. The average cost overrun for single-contract projects was only 3.4 percent. In other words, cost overruns are an average of 60 percent higher under the multiple-contract scheme—even though the bids are higher to begin with. The high number of change orders undermines the purpose of competitive bidding: A contractor that has been awarded a project on a low bid often can recoup any discounts it offered in its original bid.

In 1981, former New York City Council President Carol Bellamy and Comptroller Harrison Goldin found that the average cost overrun on large city projects was 11.9 percent—twice as much as state overruns—and that more than two-thirds of the change orders resulted from operational problems caused by Wicks. Scrutinizing the construction records for Manhattan's Fashion Institute of Technology, Bellamy and Goldin discovered that more than 750 change orders—400 from the general construction contractor, 213 from the electrical contractor, 86 from the heating and ventilation contractor, and 56 from the plumbing contractor—had increased the project's cost by $2.3 million, even before the contractors filed additional damage claims for $14 million. A former official of the federal Department of Housing and Urban Development acknowledges that he routinely added 10

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percent to his cost estimates for city projects to account for the effects of Wicks. As a result, some city proposals exceeded HUD cost guidelines and were deemed ineligible for federal funding.

Even after a project has been built, the agency responsible may spend years in court defending itself against lawsuits for improper coordination of contractors. In one two-year period (1979-80), for example, New York City was sued for a total of $42 million in such damages.

Poor coordination and inadequate screening procedures can also result in shoddy workmanship. Major public projects—notably Police Plaza, Woodhull Hospital, and Martin Luther King High School—have required large expenditures to redo work that was botched by the original contractors. The entire roof at Police Plaza required replacement, at a cost of nearly $1.9 million. Less than ten years after Woodhull Hospital was built, the Health and Hospitals Corporation had to spend $2 million recaulking construction joints and replacing roof systems, and another $300,000 rehabilitating the cooling tower.

The Origin of Wicks

State legislators passed New York's first multiple-contracting law in 1921. They believed that individually awarded subcontracts would foster greater competition and lower prices and that forcing the government to supervise its own projects would trim costs by eliminating the general contractor's profit margin. It soon became apparent, however, that separate contracting actually made contractors unaccountable: Each was able to point to the others to excuse delays and shoddy work. Government agencies watched helplessly as timetables unraveled and costs escalated.

In 1946, the Legislature passed a bill, sponsored by State Senator Arthur Wicks, that required multiple contracting for all construction by public housing authorities in New York State. Since then, his name has been associated with all of New York's multiple-contracting statutes.

Under Wicks, government agencies are in effect unable to screen out bids from contractors on the basis of past performance

Over the years, many prominent public officials have called for the repeal of the multiple-contracting laws. New York City mayors, including Robert Wagner, John Lindsay, Edward Koch, and David Dinkins, have been among the strongest voices. Koch joined the battle in 1984 with the publication of a report that conservatively estimated the city's annual cost from Wicks at over $100 million. This past February, Mayor Dinkins released his own report calling for the repeal of multiple-contracting mandates.

State officials, too, have frequently criticized Wicks. The 1975 State Charter Revision Commission for New York City called Wicks an archaic statute that had "become an administrative nightmare." The exhaustive *Study of Public Construction Laws and Procedures*, prepared in 1977 by the New York State Division of the Budget, also called for the repeal of Wicks. In May 1987, Governor Cuomo's Division of the Budget issued an analysis, *Fiscal Implications of the Wicks Law Mandate*, which demonstrated that the Wicks Law adds at least 20 percent to project expenses. The report meticulously compared construction costs for three types of public facilities—academic buildings, prisons, and fire stations—and contrasted Wicks projects with those that were bid

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under a single contract because they were exempt from the law's requirements. The report concluded that the Wicks Law costs state and local governments more than $300 million a year.

Even judges have publicly criticized Wicks. In a 1966 opinion, *Forest Electric Corp.* v. *State*, the New York State Court of Claims awarded a damage claim to a contractor suing the state for poor construction coordination. The court's opinion included the unusual comment that the Wicks Law "should be studied with the express purpose of either eliminating or amending the law to permit the State to let such contracts as this to one bidder."

Despite the overwhelming consensus that Wick's should be repealed, the State Legislature has consistently obstructed efforts to do so. In 1988, for example, Felix Rohatyn attempted to exempt New York City's School Construction Authority from multiple-contracting mandates. Rohatyn had unusual leverage: $600 million of Municipal Assistance Corporation surplus funds that he unilaterally controlled. He promised the money for desperately needed school construction—provided the work would not be hampered by Wicks. Mayor Koch, Governor Cuomo, and the United Federation of Teachers supported the plan. Nonetheless, State Senate Majority Leader Warren Anderson termed the proposal "dead in the water," and proclaimed that "the Wicks Law is a good law." Pressure from New York City Republicans in the State Senate, who feared the political consequences of turning down the funds, forced Anderson to keep the issue on the table. Ultimately Rohatyn and the Legislature negotiated an elaborate compromise, granting the School Construction Authority a temporary Wicks exemption in exchange for numerous concessions on costly labor practices and a promise from Governor Cuomo not to press the Legislature to repeal the Wicks Law for at least five years.

Last year, during the depths of the fiscal crisis, a coalition of local governments, construction professionals, business groups, and school boards joined forces in an attempt to repeal Wicks. The group was unable to find a single legislator willing to sponsor its bill. "This is an outrage," said Louis Grumet, executive director of the State School Boards Association and one of the members of the anti-Wicks coalition. "Not repealing Wicks is like putting a surcharge on the education of children." A spokesman for the Legislature blithely responded: "The Governor and the leaders pledged there would be no tinkering with the Wicks Law."

Why is the Legislature so attached to Wicks? Because of heavy lobbying by those who benefit from it: associations of plumbing, electrical, and specialized mechanical contractors, and several construction trade

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unions. These groups argue that repeal of Wicks would allow general contractors to squeeze subcontractors to the point where construction quality would suffer. They claim that the Wicks Law prevents "bid shopping," in which a general contractor wins a government contract and then "strong-arms" subcontractors into working for such small amounts that the subs must use inferior construction materials, employ fewer workers at lower wages, cut corners, and ignore plan specifications. Wicks supporters also fear that general contractors will procrastinate and skimp on forwarding payments for work as it is performed. Such concerns could easily be addressed, however, by requiring general contractors to specify their chosen subcontractors and cost estimates when they submit bids and to pay their subcontractors promptly. Wicks advocates also claim, despite all the evidence to the contrary, that multiple contracts actually save money. Yet when separate contracts have been sought by specialists not covered by Wicks (such as sheet metal contractors), mechanical trades contractors—staunch defenders of their own privileges under Wicks—have argued that such a measure would increase costs, impair job coordination, and dilute responsibility.

It is neither surprising nor scandalous that contractors and construction unions would defend a law that benefits them economically. But a recent study reveals that the beneficiaries of Wicks include criminal enterprises. Organized crime uses the construction industry in New York as both a profit center and a screen for its other activities. The complex world of construction creates opportunities for featherbedding to give mobsters "legitimate" jobs (John Gotti, for instance, was on the payroll of a plumbing contractor), extortion to guarantee the timely delivery of materials and absence of labor trouble, fraud and money laundering in the inflation and doctoring of invoices and substitution of materials, and collusion and coercion among contractors when submitting for jobs.

In 1990, the New York State Organized Crime Task Force published its final report, *Corruption and Racketeering in the New York City Construction Industry*. (The task force's interim report, published two years earlier, had included only one policy recommendation: Repeal the Wicks law immediately.) The 1990 report identified construction fraud as one of organized crime's main sources of income and singled out public projects in New York City as particularly vulnerable to corruption because of their size, complexity, and poor management largely due to the Wicks law. "At almost every stage of the construction process," the task force noted, "it is easier to extract money from public builders." The task force found that Wicks also obstructs the government's ability to audit construction billings and to evaluate "'unknowables' such as the amount of concrete and other materials used, the number of workers actually employed, or the amount of overtime actually worked."

Time for Repeal

The Wicks law has long been a target for good-government advocates: The public officials who attack it are joined by newspapers, civic groups, and statewide associations of local officials. The New York City Bar Association, Citizens Budget Commission, New York State School Boards Association, New York Conference of Mayors, Association of Counties, Association of Towns, and many other organizations have vehemently condemned Wicks, often in detailed reports and analyses that have gathered dust for decades.

In 1988, the City Club of New York, a century-old good-government organization, wrote all of New York City's state senators and assembly members, asking their posi-

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tion on Wicks. Initially, only two of the city's 24 senators and nine of its 59 assembly members responded, all favoring repeal. The City Club's newsletter continued to list the reticent representatives' names each month, but only three Wicks supporters eventually revealed their position. Each offered polite double-talk about how the Wicks Law is a valuable tool for lowering the costs of public construction. State Senator Leonard Stavisky, a Queens Democrat, wrote: "It is my hope that those people who are most familiar with the individual building trades are best able to bid intelligently in their respective areas of responsibility." Assemblywoman Nettie Mayersohn, also a Democrat from Queens, argued that "repeal would only benefit a small group of large general contractors at the expense of thousands of small-businessmen and their employees."

Given the huge body of evidence that the law wastes public funds and the unsavory nature of some of its beneficiaries, it is not surprising that most legislators prefer not to discuss their support for Wicks. Partisanship and ideology have little to do with the issue: Wicks Law supporters come from both parties, as do the law's opponents in Albany and around the state. The case for repeal is overwhelming, but a clear majority of state legislators have shown unswerving allegiance to a small cohort of contractors and unions and, at least incidentally, to the economic interests of organized crime. Were they so steadfast on behalf of the public interest, New York's prospects might not seem quite so grim. ■

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Fun and Games at the Consumer Affairs Department

Carolyn Lochhead

The Department of Consumer Affairs press release carried Commissioner Mark Green's name in eponymous green ink. It announced that, in a major citywide sweep, a dozen undercover agents had penetrated 254 New York salad bars and delis, finding that one in three was cheating its customers. The *Daily News* immediately picked up the charge: that customers are routinely bilked by shopkeepers who make them pay for the weight of the plastic trays that hold their chicken, pasta, Greek salads, and other delicacies. "Salad bars are apparently full of more than one type of baloney," Green quipped. The commissioner charged 115 stores with deceptive trade practices.

Operation Salad Storm, as one might call it, is typical of the flamboyant style Green has brought to his office. Mark Green clearly likes attention. He has become one of the city's most visible public officials, using press releases, photo-ops, and TV appearances as the chief weapons in his war against "consumer abuse" and "business predators." The 47-year-old Green projects himself as a champion of consumers, especially poor consumers, who, he says, "lack the sophistication to know when they are being defrauded by the marketplace."

The department, created in 1968, enjoys broad regulatory powers. An agency pamphlet boasts that New York's consumer regulations "constitute the most effective, comprehensive set of remedies against abuses in the marketplace available to any jurisdiction in the country." The department enforces all laws "relating to the sale and offering for sale of goods and services within New York City." Many of these cover false advertising and other deceptive trade practices. The agency also licenses fifty thousand businesses, including billiard rooms, caterers, parking lots, horse-drawn cabs, bingo games, laundromats, debt collection agencies, movie theaters, and scrap metal processors.

Thanks largely to Green's efforts, the Department of Consumer Affairs is the most visible of the many city and state agencies that regulate the relationships between business enterprises and their customers. New York State has so many such agencies that it has established the New York State Consumer Protection Board to coordinate them. Yet, how many New Yorkers can name the head of the city's Department of Housing Preservation and Development, which keeps an eye on the physical conditions of rental housing, or the state's Division of Housing and Community Renewal, which enforces rent regulations in the city? Officials of the city's Taxi and Limousine Commission and Department of Health likewise toil in obscurity.

But Mark Green is different. A media-savvy two-time congressional candidate and former guest host on CNN's *Crossfire*, he is a

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CONEY ISLAND

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master of the dramatic backdrop and the clever sound-bite. Green employs these tools, he says, in defense of consumers victimized by the vagaries of the market. "Laissez," he says, in characteristic Greenspeak, "is not always fair."

Some of what Green has done is worthwhile. He closed down a midtown electronics store that had a long history of bilking tourists. He launched "Tuesday Nite Out," a promotion by restaurants, parking lots, theaters, and other retailers offering discounts on a routinely slow night to bring more people into the city and help reduce crime. Yet the great bulk of his efforts have been at best silly, and at worst destructive to the city's economy and the interests of consumers.

The salad sting is a case in point, carrying several classic Green trademarks. It targeted an intensely competitive business, one that caters to the type of person who can afford lettuce at $4 a pound. City inspectors went into stores posing as customers. Fines were collected. The story was released to the media via a colorful press release filled with catchy phrases.

Yet Green's anxieties about container weight add up to a distinction without a difference. Containers obviously weigh—and cost—something. Proprietors can either charge separately for the container, or pass the cost along to the consumer in higher salad prices. Either way, it has no effect whatsoever on the total cost to the consumer. Department stores, similarly, "give away" fancy shopping bags, but consumers pay for the bags when they buy the goods that go into them.

Indeed, if the sweep accomplished anything, it probably *raised* prices in New York's salad bars. Green's press release stated that the offending stores had paid $13,500 in fines to the city. The Consumer Affairs Department notes with pride that under Green's leadership, it has become "self-sufficient," raising, from license fees, fines, and court judgments, 101 percent of the $13 million it spent in 1990. The press release does not, of course, mention that these costs are ultimately passed on to consumers, particularly in a case like the salad-bar sweep. Competition among New York delis and salad bars narrows profit margins so tightly that proprietors cannot afford to absorb any additional costs.

If such subtleties are lost on Green, it may be because his background is in law and politics, not economics. A Brooklyn native and graduate of Cornell University and Harvard Law School, Green spent the Seventies working with Ralph Nader, a man he recently described as "a friend, a mentor, and a hero." In 1980, voters rejected Green's bid for the Upper East Side congressional seat held by Republican Bill Green. In 1986 he unsuccessfully challenged Alfonse D'Amato for the U.S. Senate. From 1981 until he took his current post, Green headed a think tank called the Democracy Project, which political insiders say consisted primarily of Green and served mainly to provide him with a title to use when writing articles and making television appearances.

Green has written or edited 14 books, including *Reagan's Reign of Error* and *America's Transition: Blueprints for the 1990s*, a policy guidebook for what he hoped would be a Dukakis White House. He has also written frequently for *The Nation*, *Mother Jones*, and the op-ed page of the *New York Times*.

In 1990, Mayor David Dinkins appointed him commissioner of consumer affairs. At long last, Green could implement the ideas he learned from his mentor; he had become, in his own description, "a Naderite with subpoena power." At his swearing-in, he announced that he would be "watching and suing whenever necessary." Among his first actions as commissioner was the formation of the "Green Team," a volunteer group composed of lawyers (along with students and senior citizens) to help sue businesses.

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Green ignored the report's most noteworthy finding: city government has erected daunting obstacles to building supermarkets

Some observers say Green accepted the appointment largely as a launching pad for another political campaign. Many expected him to run against D'Amato again in this year's Senate race, but his prospects dimmed considerably when Attorney General Robert Abrams announced his candidacy. Green now says he will serve out his first term in the Dinkins administration. Tempting as it might be to run again, he explains, his current post gives him "an incredible opportunity to implement the ideas I've been writing about."

Oddly enough, Green insists that among his ideas is a deep appreciation of how market competition in a free economy leads to greater choice and lower prices for consumers. "I'm a very passionate believer in the competitive market economy," he says in an interview. He speaks of the "brilliance, efficiency, innovativeness" of markets. But he quickly adds that he believes he is a necessary part of the free-market system. The government must intervene, he says, when the market fails.

In particular, Green believes poor people are not sophisticated enough to spend their money wisely in the face of powerful advertising and merchandising strategies. This consumerist mindset, best articulated by John Kenneth Galbraith in his 1958 book *The Affluent Society*, views customers as passive instruments whose spending choices are dictated by manipulative marketing techniques. This view, never persuasive to Galbraith's fellow economists, is also at odds with common sense. Consumers—especially poor working people on tight budgets—tend to be shrewd judges of their own interests. Businesses, meanwhile, cannot survive unless they give consumers what they want. These assumptions are at the heart of market economics.

Green's actions belie his professed devotion to the free market. In a recent report titled *The Poor Pay More*, he accused New York City supermarkets of discriminating against poor people—and ignoring lucrative business opportunities—by shunning low-income areas. To prepare the report, Green's staff consumed "hundreds of person-hours," many of which were spent interviewing supermarket executives and community activists. The report concluded that such discrimination forces the poor to rely on bodegas and other "dirty, cramped food stores that charge more than stores in middle-class areas." The report captured wide media notice, including a favorable story in the *Wall Street Journal*.

"Supermarkets, contrary to their own interest, and the interest of the community," Green asserts, have "abandoned the inner city." Supermarket owners, he alleges, are "following stereotypes rather than economics." Green claims supermarket chains would be making money in the inner city if not for their owners' "lack of interest in serving minority people and neighborhoods."

The argument implies that supermarkets are intentionally ignoring unexploited profit opportunities that the Department of Consumer Affairs has uncovered. In effect, Green is claiming to be a better judge of a supermarket's financial interests than its owner. "Capitalism is brilliant, but not omniscient," he says. Government must step in to "correct market imperfections."

Green's analysis, according to a Wall Street economist, "displays such a fundamental

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ignorance of the premises of a market economy that it's breathtaking." This is not to say that business owners, managers, and investors do not make mistakes. But the market ensures that when they err consistently, competitive forces will put them out of business. Indeed, many stores have tried to operate in poor neighborhoods, but found it unprofitable and pulled out.

Bodegas also came under fire in Green's report for exploiting a "captive clientele" and stocking too little nutritious food and too much "beer, finger cakes and potato chips." The report also faulted a "lack of courtesy cards and teller machines."

Similar allegations dating back to the 1960s were long ago refuted by economist Walter Williams, who studied retail pricing in poor, particularly black, neighborhoods. Prices are indeed higher in poor areas, Williams found, but so are costs. Insurance premiums for fire, theft, and vandalism cost more. Extension of credit, an essential and common practice among New York bodega owners, adds further risks. And bodegas are not able to do the same volume of business as supermarkets. Thus, even with higher prices, stores in poor neighborhoods are considerably less profitable than their middle-class counterparts. So-called merchant greed is, in fact, merely a response to a high-cost environment.

Green's report made much of the fact that some grocery chains aim at a more affluent customer than others. But every store targets a particular customer base: Does Saks Fifth Avenue "discriminate" by neglecting K-Mart shoppers? The report also bemoans a lack of "communication" between retailers and their customers, and suggests that the city help activists set up "forums" where consumers can air grievances about grocery stores. Yet such actions would most likely serve not to encourage merchants to open additional stores, but rather to frighten still more away.

What is most striking, however, is the way Green played up allegations of discrimination—in a press conference, a *New York Times* op-ed piece, and an interview with the *City Journal*—while ignoring the report's most noteworthy finding: that the city government has erected daunting obstacles to building supermarkets in poor neighborhoods.

The report cites "the extraordinary length, complexity, and expense of the city's environmental review procedures" and its onerous zoning restrictions. It points out that the city often requires a developer to gauge the likely economic impact of a new supermarket on existing stores, a requirement the city has used to prevent competition from supermarkets. Developers must pay for these complex and highly politicized permit procedures, which can cost hundreds of thousands of dollars and take years to complete. City Planning Department officials told the agency that the land-use review process for the new Waldbaum's store in College Point, Queens, took three years. "These delays can torpedo a store development," the report notes.

Moreover, supermarkets must obtain a special permit from the planning commission in order to locate on land zoned for manufacturing. (This requirement also applies to variety, department, and furniture stores of at least ten thousand square feet.) The report points out that, since most of the best remaining supermarket sites are in manufacturing zones, "this requirement has seriously discouraged new supermarket development." It says that the Pathmark that opened in 1982 in the Gowanus section of Brooklyn "was delayed many months by special permit reviews, during which a dispute developed with area residents concerned about increased traffic." City planning officials told the agency that shopping centers now being built in Brooklyn and Queens are "circumventing the special-permit rule by using a hardware store (Pergament) and a toy store

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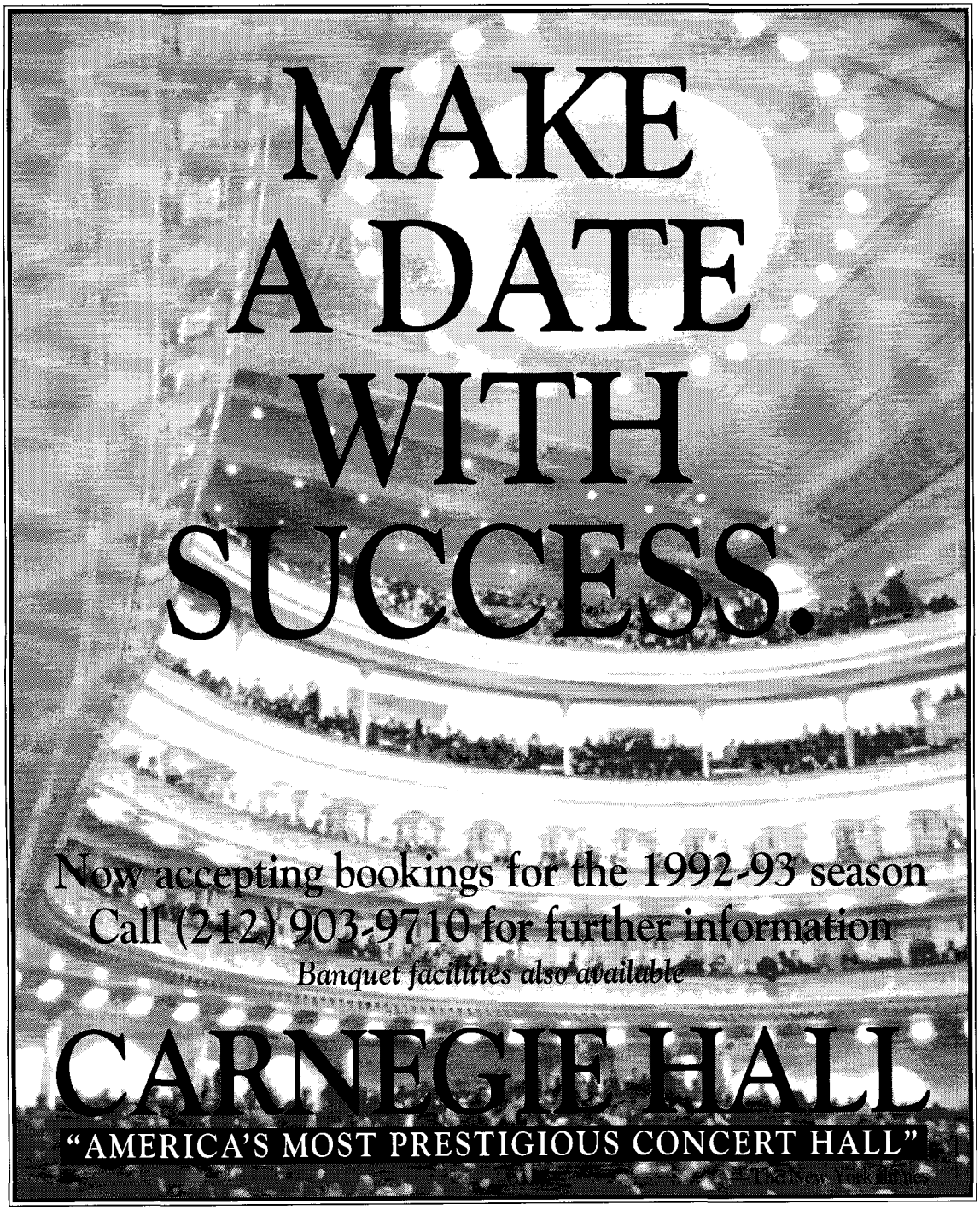

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(Toys 'R' Us), rather than a supermarket, as anchors." Although the developers would like to include a supermarket, they told the Consumer Affairs Commission that they "don't want to contend with the special permit review process."

The report says that Al Schneider, president of Royal Farms, a 16-store supermarket chain, complained about the land-use review process in his attempts to open new supermarkets on Webster Avenue in the Bronx and Coney Island in Brooklyn. Both need zoning variances. The report says:

> About the Bronx project, which has already spent 15 months in the ULURP pipeline, Schneider said, "We were promised (by the city) just three months ago that it was now only a matter of getting something typed, that someone was out on vacation and it would be done when they returned. But then the City suddenly decided they needed a traffic study, which we did. Now they've come up with something else—that we need a noise study. It never ends. After I do this latest thing they might want something else." He said the various delays could lead to his dropping the Brooklyn project.

These findings strongly suggest that the dearth of supermarkets in poor neighborhoods is largely the result of *government* failure, not market failure. But when he talked to the press, Green chose to play up his questionable allegations of merchant discrimination and exploitation, squandering a remarkable opportunity to call attention to city regulations that palpably harm New York's consumers.

Green's interest in the supermarket business is not limited to poor neighborhoods. In July 1990 he held a press conference in front of a D'Agostino supermarket on First Avenue and 86th Street in Manhattan to announce his contention that a proposed merger between the D'Agostino and Sloan's chains was anticompetitive. The supermarket industry happens to be among the most competitive in America, its profit margins held to around 1 percent of sales. Green says he asked the Federal Trade Commission to examine the merger (which clearly lay outside his own jurisdiction) because it would increase a company's market concentration "in the relevant market." That market, he explained, includes the Upper East Side, "an area where I live."

Green effectively killed the deal on his own. Nicholas D'Agostino, chairman of D'Agostino Supermarkets, says the Sloan family backed out at the prospect of becoming embroiled in a lengthy federal investigation. D'Agostino believes Green was motivated by his political ambitions: "It was during one of his periods of, 'I may want to run for senator again someday,' and he wanted to keep his name in the papers." (Sloan's executives did not respond to requests for comment.)

Green defends his intervention. "My job was to make sure that consumers had the best result of a competitive market economy," he says. The effect, however, was precisely the opposite. A merger between two smaller chains would yield a stronger entity better able to compete against larger retailers, including the market leader, A&P. Quashing the merger harmed consumers by weakening competition.

"I wake up in the morning," Green insists, "thinking I have one and only one mission: to fight like hell to make sure consumers have the choice of low price and high quality and are free from consumer fraud." But the way Green approaches his job suggests he is moved more by hostility toward business than friendliness toward the consumer. This hostility is evident in the way he handles his studies, as well as their content. For example, supermarket executives first heard about Green's allegations of

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STATEN ISLAND FERRY

discrimination when reporters started calling for comment. Green says he feels free to release studies without giving "advance copies to the people we're criticizing. They understandably would like to schmooze and co-opt us, or to put it in a better light, to give us information." But what if such information proved relevant, or if discussions with an industry moved it to take corrective action? Surely the consumer would be better served—but it might diminish the drama of a press conference.

The most serious problem with Green, though, is not his thirst for publicity or his presumed political ambitions. It is, rather, the uses to which he puts his energy and skills. As the grocery store issue illustrates, New York's consumers would be better served if their Consumer Affairs Commissioner were just as aggressive in criticizing anticonsumer regulation as he is when his target is a private business. Yet Green refuses to comment on how consumers are affected by city regulation of such industries as taxicabs and cable TV, because they "are currently regulated by another agency in this government, not me." It is worth asking, moreover, why the city seems so uninterested in assuring that New Yorkers get a fair deal when they consume goods and services, including education, provided by the monopolistic city itself.

Green has become part of New York's prevailing governmental culture, which is generally hostile to business and harmful, in effect if not intent, to consumers. Small business owners, especially, see city regulators as combative and confrontational. Mark Alesse, New York director of the National Federation of Independent Business, says many want to leave but cannot. "They've built a client base that is local, and they're stuck," he says. "But the sentiment is, 'Boy, I'd get out in a flash if I could.' And many of those who can are looking into ways to do so."

Green's true motives are symbolized by his favorite backdrop for publicity photos—a storefront with a padlock on the door. Such photographs, repeated in different settings throughout the city, portray with vivid clarity not, as Green would have it, the triumph of New York consumers, but the departure of many businesses that sought to serve them. As New York businesses close, the marketplace becomes less competitive, and consumers are left with fewer choices and higher prices. If Green were truly a champion of the consumer, he would devote himself to preventing this from happening. ■

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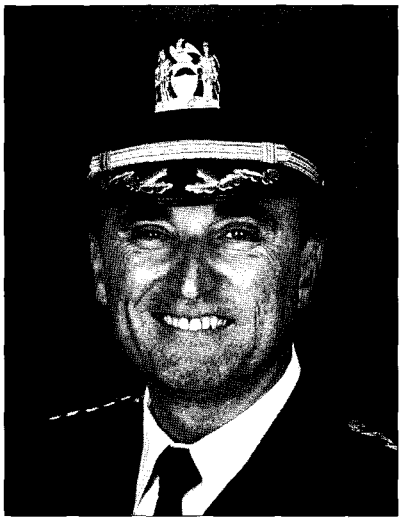
Victory in the Subways

A City Journal *Interview with Police Chief William J. Bratton*

Until his recent departure from New York City, former Transit Police Chief William J. Bratton presided over a little known but profoundly important Cinderella story—the transformation of New York's Transit Police from a demoralized, passive unit into a highly motivated, aggressive, and effective police force responsible for enforcing law and order on one of the world's toughest beats.



Bill Bratton's highest accolade is the one given him by his colleagues and subordinates. He is known as "a cop's cop." Fulfilling his childhood dream, he joined the Boston Police Department in 1970 after serving as an MP in the U.S. Army. After six years as a patrol officer Bratton won the prestigious Schroeder Medal for heroism in 1976. Promoted to a staff position at Boston Police Headquarters, Bratton began to study the concept of community policing and apply it in a series of model programs in Boston. At the same time his outstanding performance and leadership skills earned him promotion to the Boston Police Department's senior ranks. In April 1990, he accepted the challenge to become chief of the New York Transit Police.

At no time in his career have Bratton's leadership qualities been more vividly demonstrated than in his transformation of New York City's beleaguered Transit Police. In just two years Bratton took a failing institution and turned it around. Morale was restored. Operations were rejuvenated and professionalized. Arrests of criminals and evictions of the disorderly soared. As a result of these strategies, ejections rose from 2,000 to between 10,000 and 15,000 a month. Felonies committed in the subways have declined by more than 30 percent in the past two years.

In this, the first of an ongoing series of interviews with innovative leaders working to improve our cities, City Journal *wanted to find out how Bratton did it, and what the implications were for policing generally.*

We interviewed Chief Bratton in New York, and a fortnight later in his sixth-floor office at Boston Police Headquarters. The interview was conducted by City Journal *editorial advisory board member George Kelling, a professor of criminal justice at Northeastern University and a leading theorist in the community policing movement, who was instrumental in bringing Bratton to the New York Transit Police; Fred Siegel, a professor of history at Cooper Union, noted authority on public spaces, and also a member of the* City Journal's *editorial board; Ed Hayes, a prominent criminal lawyer and former Bronx assistant district attorney; and Lawrence Mone and James MacGuire of the Manhattan Institute.*

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CITY JOURNAL: Let's start by asking your definition of community policing, the philosophy behind it, and why you think it is important.

BRATTON: Lee Brown's definition is a good one: In community policing, police form a partnership with members of the community to solve problems such as crime, the fear of crime, social disorder, and neighborhood decay. It is a proactive, not reactive, philosophy that attacks problems at their roots. It emphasizes prevention through creative problem-solving techniques.

In community policing, officers are assigned to steady "beats" within a community either in a car, on a scooter, or on foot, depending on the geography and nature of the beat. By being assigned to the same beat, they become intimately involved with their community and develop a sense of responsibility for what happens there. The community police officer knows his neighborhood, and the citizens in the neighborhood know him. They talk to him, share problems, and work through him to solve those problems rather than relying on 911. The other side of the coin is that the officer develops contacts in the community and relies on them to be his eyes and ears. If the community solves its own problems with the assistance of the police, the total number of calls for assistance should decrease measurably. For instance, in Flint, Michigan, calls decreased 43 percent over three years, demonstrating that community policing pays for itself.

The fundamental point about community policing is that officers and the community jointly identify problems and make decisions on how to address them. Crime becomes a problem to be addressed not only by the police but also by the community. All people have a stake in crime prevention. No matter how many officers we deploy to respond to 911 calls, we cannot meet all the expectations of a community. The community must police itself, with our assistance.

In Boston, for instance, our network of "block watchers" has grown from 35 in 1980 to 600 today. Our neighborhoods have been enfranchised. We had no explosions after the L.A. riots because we were already on the streets talking to our community networks.

CITY JOURNAL: Could community policing have worked in Los Angeles?

BRATTON: The LAPD has historically had many strengths, including enormous pride in its performance. But the citizens of L.A. have never been willing to fund the police there at a level consonant with the challenge they face. The result is that L.A. has been understaffed for thirty years. Everyone knows it, and nobody has had the political will to do anything about it. Before the riots, there had been a proposal on the table to cut the present force size by 10 percent across the board. Needless to say, no one is claiming authorship of that brainstorm these days.

Los Angeles has about 1.3 police officers per thousand residents. That compares to approximately 3 officers per thousand residents in New York and other comparable cities. And remember that L.A. is far more geographically dispersed than New York or most other cities.

To respond effectively to a situation like the L.A. riots you have to be able to put force on the street quickly. In New York City the department can deploy two thousand cops in a matter of minutes. They can outnumber the demonstrators at most demonstrations!

L.A. needs more officers so that it can handle its 911 workload and spend time walking the neighborhoods. L.A. has more than one million 911 calls that go unanswered a year. That's three thousand a day that do not even get a response. They need more manpower just to relieve that pressure. Then they can begin to devise strategies that go to the source of the problems they have.

L.A. also must completely reverse its impersonal, "just the facts, ma'am," policing

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approach. That intimidating, macho style has not worked. There is phenomenal alienation out there, and I, like the rest of America, will be very interested to see how they work it out.

CITY JOURNAL: What was the condition of the New York Transit Police when you came onto the job?

BRATTON: The situation was not good. Here was a force of four thousand officers—the seventh or eighth largest police department in the country—and nobody wanted to be identified as a transit policeman. At parties, if someone asked them what they did, they'd just say, "I'm a cop." They were embarrassed to be known as Transit Police. The force was demoralized. And for good reason.

The lack of esprit de corps flowed directly from an absence of vision of what the department ought to be doing to deal with the situation it confronted in the late Eighties and early Nineties. For whatever reason—whether political, bureaucratic, or personality-driven—there was a vacuum of leadership.

CITY JOURNAL: How did this manifest itself?

BRATTON: In many ways. First was the selection process. All police candidates entered the central police academy, and there was a lottery to determine who was assigned to the Transit Police, who to the Housing Police, and who to the main force. Getting into Transit was like the booby prize. What kind of message does that send to a young recruit? Tough luck kid, you lose—you're going over to transit. Can you blame people for being demoralized when that is what the system is telling them?

Then there were the job conditions. The Transit Police district stations located in the subways were in terrible shape. Many were old and hadn't been properly maintained for years. There was inadequate air-conditioning in most of them. They were not designed for effective policing, but merely to fit into whatever space was available. I remember, when I first began riding around the system, how shocked I was when I got to one of the Brooklyn stations. The district station was all the way at the other end of the platform from the subway station entrance—probably at least 250 yards—and then you had to go up four flights of stairs. Imagine how difficult it would be getting an unruly drunk down the platform to the district station. The station was completely unsuitable for policing.

The LAPD has been understaffed for thirty years: They have more than one million 911 calls that go unanswered a year

Third, there was the disgraceful communications situation. The Transit Police were using radios that did not even work underground. Can you imagine what impact that has on a cop who is working alone and may be about to confront a dangerous criminal? He's exposed and vulnerable, and if he needs backup he can't call for it. It was crazy. But for some reason the system tolerated that craziness. There was always some excuse for not upgrading the radios—budget cutbacks, or political infighting, or whatever. Meanwhile, crime in the subways rose.

Another deficiency when I arrived was that we had very few cars. I suppose the rationale was that since we were a transit force, we should always be in the transit system. But that reasoning had some serious flaws. If criminals could count on cops arriving only by subway, they just waited in the station for one train to pull out, and they knew they were in no danger of being

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apprehended until the next one came in. And they were right.

Many of the cars we did have were allocated to command staff or district offices. Very few were available for daily police work. This, again, had an extremely negative effect on men in the field. If you're about to make a collar in the station at 125th Street, and you think the perpetrator may be armed, and there's no assurance of backup, and to get the prisoner down to the district office they're going to send a car from Fourteenth Street that may take an hour to get to you, your work is being made unreasonably difficult. We needed our own fleet of cars, and I began fighting for that immediately.

Other problems included an interminably long arrest-processing system. If a cop made an arrest, he could count on spending the next 12 hours with the accused criminal at the station. This was not only extremely tedious; it took men we needed on the beat out of the line of duty.

Finally, there was very poor supervision when I arrived. Many top people just sat in their air-conditioned offices and told people what to do and never got out into the system to see what was going on. They were completely out of touch with operations in the field, and it showed. Officers were given incredibly mind-numbing assignments—single-officer patrols, watching a token booth for eight hours—and nobody ever questioned it. There was a defeatist attitude everywhere.

I can sum up the condition of the entire transit force by telling you a story of what happened my first night on the job. I had just arrived from Boston and was living temporarily in a midtown hotel. I went out for a walk and passed a subway entrance. There was an officer outside it, and at first, because the uniforms are so similar, I assumed he was a regular NYPD man. But I looked closely and saw the patch that said "Transit Police," and I went up to introduce myself. "Good evening, officer," I said. "I'm Chief Bratton. I'm just starting to move around the system, and I want to introduce myself."

This guy was leaning against a building, with his arms crossed. He had his cap tilted sideways. His hair was too long, dirty, and uncombed. He hadn't shaved for a couple of days. His shirt was open, and the tie was attached to his collar tab. His belt was sagging from all the equipment that he had to have on it, which was far more than the belt was designed for. All those gadgets have nothing to do with good police work and make our people look more like telephone utility men than cops. And his shoes hadn't been polished for weeks, if they ever had been at all. Now I may be something of a nut on appearance, but I think it's safe to say that this guy looked like a mess.

Furthermore, at first he did nothing at all to respond to my greeting. He just looked back at me, arms still crossed, as I stretched out my hand. Then I could see his mind working. "Bratton, Bratton . . ." Finally it registered, and he managed to stand up and shake hands. "How's it going?" I asked. He said, "Fine."

"What's your assignment?"

"I'm guarding that token booth." He pointed down the steps to the station.

"What else are you assigned to do?"

"That's it."

"Why are you assigned to do that?"

"It was robbed."

"When?"

"I don't know. A couple of months ago."

"Well, if your assignment is to guard the token booth, why aren't you down there doing it?"

"My radio doesn't work down there."

In that one story I discovered many of the elements that comprised the force I had just taken over. The men were not proud of their positions, nor did they take care of their appearance. And nobody told them they should be proud or that they should appear

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QUEENS SUBWAY YARD

as respectable and impressive public servants. The officers were being assigned to unbearably boring, tedious, and ultimately fruitless work. And they were not equipped or supported in the way they should have been to achieve those tasks they were given.

CITY JOURNAL: What initiatives did you take?

BRATTON: The first thing I did was get out and around the system to find out what was going on. I must say I was impressed. Whatever the difficulties they faced, most of the force was still trying to do the best job they could, given the constraints they were working under. One of the nice traditions of the New York Transit Police is the salute. When I first went into the field to see what the situation was, I would tour stations and posts, and I always started with the salute, and the men always saluted back. They were being treated like the police officers they were, and they responded well to that.

Then we would talk. No one had ever come out to see them before and tried to understand what they were up against. They were thrilled to get the chance to tell their story. Out of these conversations in the field and my own observations, we eventually formed a consensus as to what were the principal challenges that faced us in performing our mission.

CITY JOURNAL: What were the primary problems?

BRATTON: The three critical, interrelated obstacles we faced were crime, disorder, and fare evasion. Crime was on the rise in the subways, but equally important, fear of crime was on the rise as well. This was cost-

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The first thing I did was to send the command staff into the system to see for themselves what the cops on the beat were facing

ing the Transit Authority significant revenue and adding to the city's fiscal problems.

Disorder was out of control. The number of people loitering or sleeping in the system, graffiti, and garbage and human waste were all on the rise. This had a pernicious effect: Good citizens more and more were avoiding the subway system.

Finally, fare evasion was becoming epidemic. In some stations people who paid the fare were becoming the exception rather than the rule. Fare-beaters were vaulting over the turnstiles by the hundreds, and only limited, ineffective measures were being taken to prevent them. After all, in a system with over seven hundred stations, you can't have an officer at every turnstile all day long.

But again, it was not just fare evasion that was the problem, it was also the public's perception of fare evasion. People looked at the steadily increasing volumes of fare evasion, of disorder, and of crime, and quite understandably they began to say, "Hey, we don't want to be part of this."

We understood early on that the problems of crime, disorder, and fare evasion were deeply interrelated, and that therefore we would have to form a coherent strategy to deal with them. We began to refer to the "seamless web." Implicit in this was that our work on any one of the three major problems would have an impact on the others.

CITY JOURNAL: What kind of tactics did you develop to address these problems?

BRATTON: Before beginning a comprehensive series of operations I first wanted to motivate our personnel. The first thing I did was to send the command staff into the system to see for themselves what the cops on the beat were facing. If I could ride around the subways at two in the morning there wasn't any reason why they couldn't. By doing so, they began to reestablish ties with their subordinates, to win the trust of the men in the field. This helped them become better supervisors.

I also instituted varied assignments so as to break up the monotony of one routine. And I began the fight to arm our force with 9-millimeter weapons. This provoked a huge outcry, but having seen the conditions in which the force worked, I was convinced that it was the correct thing to do. The weapon is powerful, yes, but the essential thing about it is that it is so much more accurate. Police Commissioner Lee Brown, a dear friend, does not share my view on this, so we agree to disagree. But I am convinced that if we are asking our people to go up against armed criminals, we have to give them, at least, equivalent firepower. It's another way of sending our officers the message that we value them.

As for specific tactics, we organized two different kinds of teams. We had plainclothes sweep teams who would come into a station or through a train looking for problems. They came in force, so the trepidation and anxiety a cop might feel working on his own in a dangerous situation was not a problem. We worked carefully with the District Attorney's office to develop procedures that did not violate anyone's civil rights. In fact the D.A. helped train our people. Each sweep team had four to six officers and was led by a sergeant. They worked well together and had high morale, and the sweeps produced some interesting results. One out of

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WILLIAM M. H. HAMMETT

every six fare-evaders we stopped either was carrying a weapon or was wanted for another crime on an outstanding warrant. That was an incredibly high statistic, and it made us realize that by fighting fare evasion we were also making an impact on crime: That's what we meant by the "seamless web." Using plainclothesmen to catch fare-beaters really made criminals think twice about bringing a weapon into the system, or about entering the system at all. And that really helped bring down the subway crime rate in the past two years.

The other tactical response we greatly enlarged was our use of decoy teams, in which an officer, backed up by a group of other officers in plain clothes, will play the role of a vulnerable citizen in order to catch violent criminals. Cops like decoy work. They feel they are more effective working in civilian clothes because they are not instantly identifiable.

There is a particular problem in New York City that has been significantly underreported, and that is the high incidence of crime against Asians. It is huge. We began to form decoy squads using Asian members of the force that would deal with this phenomenon, and in the process our conviction rate soared. As it did, crime began to go down.

CITY JOURNAL: How well have your initiatives to keep disorderly people out of the system worked?

BRATTON: No sooner had we begun Operation Enforcement, a major enforcement effort designed to deal with rules violators, than Judge Sand issued his ruling preventing us from ejecting many disorderly people from the subway. Once the Sand ruling was overturned, we intensified our efforts to curb disorder, and this very quickly resulted in a rise of our monthly ejections from the system from 2,000 to 16,000.

CITY JOURNAL: Did this result in any controversy?

BRATTON: Of course there was an outcry from homeless advocates, but the truth is that we tried to handle the program in a way that benefited the homeless. We had four

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buses going around the city, and anyone who was ejected was offered transportation to a shelter. We also formed a Homeless Outreach team of 25 volunteer officers who would approach homeless men and women in the system and try to offer counseling and information about the options available to them. Those who would accept help were put in touch with the social service agencies that seemed most appropriate in the individual case.

CITY JOURNAL: How did you induce officers to embrace the community policing approach?

BRATTON: The challenge is to find ways to make problem-solving interesting to cops. We took what was formerly the 80 percent free patrol time on an average transit shift and created organized, results-oriented programs. By designing programs like Operation Enforcement, mini-sweeps, and decoy operations, we were able to give the cops the feeling of succeeding at an important job. We designed a system of attacking fare evasion that the cops would buy into. We put them in plain clothes. We gave them supervision, which, believe it or not, cops like. We put them in teams, which cops also enjoy. All of these things helped produce a new mindset.

CITY JOURNAL: Did you have to bring in new officers to make your program work?

BRATTON: No. We reallocated resources and tried to maximize free time. We turned the Transit Police around before the new recruits came, so when they did they joined a group with high morale. That's why Lee Brown is waiting until the fourth year of the community policing program in the NYPD before bringing in the five thousand new cops. First he is putting in the structure and training senior staff. That's the way to do it. In a sense, we at transit helped buy him that time by beginning to reduce crime. That took some pressure off. But New York's "Safe Streets" program cannot succeed, nor can any community policing effort, if it is perceived as just a police program. You also need education. You need help from social services. You need to work closely with the D.A., victims' assistance agencies, and local community members most of all.

CITY JOURNAL: How do you get the community to support your efforts?

BRATTON: Here, as everywhere, marketing is vital. We police have to get out, tell our story, and make the people our partners in what we are trying to do. Community policing can't work without the intimate, sustained involvement of the community, and to get and keep that we have to convince people in the local neighborhoods—in talks, by advertising—that this is their program, in partnership with us.

We began an advertising and marketing campaign to let the public know that things were really changing in the subways. We had access to the TA's advertising space in the subways and on the buses, and we made use of it. We also put out newsletters and videos for in-house use. Today's kids don't get their information from magazines and books—it's the MTV generation. You have to reach them in the way that they are comfortable with.

I also did a couple of radio and TV spots which had more impact—particularly the radio—than we had dared to hope. I suppose the ultimate compliment was when Don Imus began doing a takeoff of me on his talk show. We had publicized our program of following up on convicted criminals when they came out of jail. We went to their homes and let them know that we knew they were back and encouraged them not to commit any more crimes in the subway. Imus's takeoff on my ad went something like, "They won't be committing crimes in the subway because we'll be having coffee and bagels with them in their living rooms." That was a great morale-booster.

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CITY JOURNAL: What other measures did you initiate during your time at Transit?

BRATTON: Most of what I did was aimed at empowering our force to be aggressive and professional police officers. For example, we developed the so-called bust bus that was literally a police district on wheels with computers and fax machines, which allows police to process the large numbers of people being arrested for fare evasion by the mini-sweep teams at the site of their arrest. We also cut down on the incredible amount of time officers had to spend processing prisoners by the use of computers and fax machines. That kept more cops on the beat, and was a particularly satisfying innovation because the problem was of long standing and such an impediment to effective policing.

We fought for and got over a hundred new cars for the Transit Police, and we made sure that they were state-of-the-art. NYPD cops were pulling our guys over to admire their equipment. It may sound like a trivial thing, but it was important. For the first time our guys were feeling good about being a transit cop. They developed a pride in themselves and their work that was wonderful.

Another important program put into place by the TA and supported by me was the concept of a station manager. One individual is designated as responsible for the smooth operation of each station, and if there's a police problem he reports it promptly to the Transit Police. Likewise if the Transit Police are aware of a nonpolice problem, they can report it to the station manager. The system works well. All of these things are important because they empower people down the line. When people are empowered, they feel a sense of ownership. They think they can make a difference, and they are right.

CITY JOURNAL: What major initiatives are you involved with in your new position in Boston?

Today one-third of Boston's gang members are behind bars

BRATTON: One thing that's being accomplished by the department in the last two years is to reduce the homicide rate dramatically. In the first three months of 1990 there were 35 homicides in Boston. This year there were 12 during the same period. We have about 65 gangs in Boston with a total of 1,500 members, and today one-third of them are behind bars. We work together with the courts and with federal, state, and county authorities, to "fast track" gang prosecutions. We put them through the system within sixty days and throw them in jail. It's a distinct possibility that we are going to end up with the lowest homicide rate in the country this year.

I should add that in Boston the gangs have been more concerned with turf issues and not so much with protecting their share of the drug trade, as in New York, or with expanding that trade to other cities, as the Crips and the Bloods have been doing across the West.

Despite our successes, it's been a tough time here. We have declines not only in budget but also in the number of officers, down from 2,083 to 1,900. We must do more with less at a time of rising expectations. We need to free up time from the "911 monster" to be effective, more proactive cops. Our cops are stuck with responding to 911 calls 90 percent of the time, so there's much less time available to do the things we should be doing and know will work.

CITY JOURNAL: How did you decide to become a cop?

BRATTON: Becoming a policeman was all I ever wanted to be. I don't know why.

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There were no cops in my family. But from a very early age it was my one ambition.

CITY JOURNAL: As a beat officer, you were decorated for heroism.

BRATTON: I was awarded the Schroeder Medal, which is the highest award given by the Boston Police Department.

CITY JOURNAL: Is that the equivalent of New York's Medal of Honor?

BRATTON: Yes.

CITY JOURNAL: In New York City you've got to die to get that!

BRATTON: Well, I'm sorry if I've disappointed you.

CITY JOURNAL: Not at all. How did you do it?

BRATTON: It was 1976. I was a patrol sergeant working in south Boston, and one day a guy came into a bank and bungled the hold-up attempt. When he saw that things were going badly, he grabbed an employee, put a gun to her head, and said he'd shoot if anyone tried to stop him. Then he dragged her out of the bank and started down the street.

I was on patrol nearby when the call came over the car radio, and I hurried over to the location. I was the first to respond. As it happened, I had just taken a course in hostage negotiation techniques. I was trying to remember what I had been taught as I went after him. The next thing I knew, we were face to face, eight feet apart. I had my revolver drawn, and he had his gun at the young woman's head. I was trying to talk to him and make him understand, as I had been taught, that I wasn't going to hurt him, and that he would be OK if he would just give up, but that there was no way I was going to leave. But he just kept swearing at me. Every so often he would take the pistol away from the young woman's head and point it at me for a second, then stick it back into her temple. And I'm thinking, how am I going to get out of this? He's either going to kill her or kill me, because he doesn't know it but I'm a terrible shot with a .38—that's one of the reasons I favor issuing the 9-millimeter—and then the worst possible thing happens. Out of the corner of my eye, I see two cops making their way toward him out of his line of sight. What they were doing was completely natural for a cop—you want to get involved—but it went against all of the training I had received. If the hostage-taker I'm negotiating with sees them, I know he'll go berserk. Fortunately for me another supervisor was able to call them off.

It occurs to me that maybe part of the reason the gunman is nervous is that I'm pointing my pistol at him. Since there's a very good chance I couldn't hit him anyway, and some chance that I might hit the hostage by mistake, I promise we're not going to hurt him, and to prove it I lower my pistol and continue negotiating with him. At this point I said, "Look, I'm serious. We have to take you in, but I'm promising you won't get hurt." And I drop my pistol. And he said, "OK, man. It's over." And he dropped his pistol and put up his hands, and it was all over.

CITY JOURNAL: Let's get back to some training and policy issues. Are the Transit Police still trained in the same way as regular NYPD personnel?

BRATTON: No. When our recruits come out of the academy they undergo 13 weeks of training in Transit Police skills and responses. I have them working with veteran transit officers who love the transit force and training new officers. In the past new recruits were given the most dangerous assignments without training. Today, they are trained and worked into ongoing operations in a deliberate manner. The impact on morale has been tremendous.

The transit force used to be thought of as the third-ranking New York police department, after the city force and the

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housing police. Today we are no longer third-class or even second-class citizens. There is no longer a lottery to enter the Transit force; we compete on an equal footing with the other services. In the most recent recruitment cycle we had 29,000 applicants, the most ever.

CITY JOURNAL: Do you have a view on the idea of consolidating the Transit force with the regular police?

BRATTON: I strongly oppose it. First of all, the functions of the two forces are so different that they require different operational structures. Second, if the two were consolidated it would lead inexorably to a diminution of the number of cops in the transit system. They'd be pulled off to take on what seemed at any given moment to be higher-priority assignments. That would have a devastating effect on a troubled transit system which needs to rebuild confidence and won't do it if the three million people who use it every day think they are putting themselves at risk.

CITY JOURNAL: Before you left, the Transit Authority performed an audit of the Transit Police that was in some instances quite critical. Would you care to comment?

BRATTON: Certainly. The criticisms were for the most part justified. The state comptroller complained that too few of our employees were civilians, and he is right. Civilians are cheaper and more efficient for many functions. But we have no control over that—the city budget office decides, and they always want to cut civilians. We have work that has to be done by someone, so it gets assigned to an officer because there are no civilians available. We found four hundred jobs we wanted to civilianize; the audit only located three hundred.

Other legitimate audit findings involved abuses of sick time and injury time regulations. We installed a stricter system of supervision. Supervisors are out performing regular home visits now. We are making progress, although negotiations with the union are always a challenge. The audit was a catalyst for change. We would have gotten around to looking at those areas ourselves, but our primary focus was elsewhere. The audit made us examine these things sooner than we had planned, and that was good.

CITY JOURNAL: What is the potential impact of new technologies on police work?

BRATTON: They are extremely promising. The continuing development of computer applications to police work may be the most important of all the technological improvements. We always have a fight at budget time over whether to invest in technology or hire additional men. And I try to make the point that while spending $2 million on hiring men will give us twenty men for one year, a $2 million investment in technology will provide efficiencies that give us the equivalent of another twenty cops year after year.

CITY JOURNAL: We've talked a lot about your efforts with the Transit Police. What do you regard as the most important indications of your success?

BRATTON: By the beginning of 1991, our initiatives had begun to yield a decrease in subway crime. Crime in the subway has now declined for 18 consecutive months. For the first four months of 1992, crime was down 30 percent compared with the same period in 1991; our ejections have risen from 2,000 to between 10,000 and 15,000 per month. We have issued dramatically more summonses. Arrest rates for serious crimes have begun to decline, because there is far less serious crime.

These tangible, quantifiable measures are important, but so are the intangibles. We now have a transit force in this city that is working effectively and whose morale is high. That will lead to a rise in public confidence in the Transit Police and in mass transit generally. Those are important positives for any town, but especially for New York City, where upwards of three million people use mass transit each day. ■

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URBANITIES

Agreeing to Disagree

TOLERANCE AND CHOICE IN A PLURALIST CITY

Richard Vigilante

Early this spring, New York City Community School District 24 in Queens made headlines by saying "no" to that part of New York City's multicultural curriculum that says first-graders should be taught "to be aware of various family structures, including gay or lesbian parents," and "to acknowledge the positive aspects of each type of household."

New York Newsday got the story across with a bold color front page featuring the illustrated covers of books the curriculum suggests might help our six-year-olds "acknowledge the positive aspects of each type of household." Among these were *Daddy's Roommate* and *Heather Has Two Mommies*, which "includes a section on artificial insemination of a gay woman."

District 24, where I happen to live, is in the heart of white ethnic Queens. *Heather Has Two Mommies* is not flying here. The local school board not only banned the new curriculum guide (as it tossed out the city-sponsored sex education curriculum five years ago), it has also started a little counterrevolution by sending a letter to other community school boards warning that the values of the new curriculum are "not in consonance with those of our communities." Another district, in the Bronx, followed suit and abandoned the new curriculum as well.

On all sides the argument has proceeded on predictably disingenuous terms. Gay activist groups want the city to force District 24 to accept the curriculum, professing to believe that building a tolerant society requires schools to teach children about the "positive aspects" of homosexual sex some years before many parents normally would tell them about the other kind. The New York Civil Liberties Union and other civil libertarians claim to believe that the school board's objections to Heather's two mommies is an act of censorship. Somehow, after all these years, the NYCLU still seems not to grasp that if government speaks (whether through the schools, the National Endowment for the Arts, or any other organ) it will inevitably say some things and not others. If that be censorship, then nothing isn't.

Nor are the neighborhood leaders conspicuous for their frankness. If local parents and school officials spoke what was really on their minds, they would probably say something like: "Get Heather and her excessive number of mommies out of here because we think homosexuality is wrong. Gay rights was invented the day before yesterday, and we have several thousand years

Richard Vigilante, formerly editor of the City Journal, *is writing a book about the* Daily News *strike.*

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of moral and biblical teaching on our side, so go jump in the East River."

Instead they claim the local school board is concerned not with lifestyle issues, but with questions of "age-appropriateness," as Ralph Fabrizio, a sympathetic community superintendent of District 20 in Bay Ridge, told *Newsday*. In this way, opponents of teaching lesbian artificial insemination to first-graders move the debate away from the tumultuously shifting sands of moral judgment and toward friendlier, value-neutral territory. After all, "age-appropriateness" could just as easily be used to explain why the first-graders are not doing calculus this year.

At first glance, it seems an obvious tack for District 24 to take. In a large racially, culturally, and morally diverse city, no group wants to be accused of imposing its morality, especially if it is religiously based, on public school children. No one wants to be accused of violating pluralism. But in practice the scruples in this particular debate are rather one-sided. Ralph Fabrizio may be chary of openly championing morality in public schools but the AIDS Coalition To Unleash Power is not. "This is the way to combat homophobia," proclaimed Kate Barnhart, spokeswoman for the youth educational lifeline committee of the AIDS Coalition. A Stuyvesant High School student who says she often reads books such as *Heather Has Two Mommies* to children for whom she babysits, Barnhart has no doubts about the moral mission of the curriculum she champions: to eliminate prejudice and promote tolerance and pluralism.

But if Miss Barnhart and her allies are promoting tolerance, why is all this tolerance about to provoke another of the knockdown, drag-out fights we have seen so many of lately—almost always in the school system—over abortion and birth-control counseling, bilingualism, free condoms for high school students, Afrocentric versus Eurocentric curricula, and on and on ad nauseam?

Aren't pluralism and tolerance supposed to be ways of avoiding conflict? And speaking of imposing values, how is it that pluralism requires Middle Village and Rego Park to surrender their beliefs because activists from somewhere else are

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annoyed at how folks in Queens want to raise their children?

The brouhaha breaking out between Middle Village and Greenwich Village is only one small battle in a much larger war over not only who will control the public schools but who will control the public norms. The two villages are fighting to define pluralism, and claim it for their own advantage. Unfortunately, in the heat of these battles, and under the influence of the city's current arrangements for running the public school system, the working definition of pluralism seems to be "let the toughest interest group win."

Do we really need these fights? Is there no way out without either side surrendering? Is it absolutely necessary, before proceeding with education in New York, to first settle a few little moral arguments that have been around for all of recorded history? Must we divert from the primary mission of the schools the enormous energy these fights require? Can a city with schools as bad as ours really afford to be putting its energy into cussing matches rather than into reading and math?

I do not mean to suggest that the moral, religious, political, and personal beliefs at issue are not important. They are very important, but they are not easy to settle, especially in New York; the fights over them tend to cluster around institutions like the schools and can be enormously destructive. If we cannot avoid these fights, we will drive out of our public schools a large and important segment of the public. As Mary Cummins, president of District 24, put it, "They can call it whatever they want. . . . If they try to impose it on us, they won't have any kids in the public schools."

In the past twenty years, education researchers have demonstrated repeatedly that a school or school district afflicted with political dissension, or other vitriolic conflicts about the school's mission, will be significantly worse at educating students than a harmonious and united school or district. When the city's villages go on the warpath over conflicting moral values, education is the victim. Good schools, like well-managed companies, have a clear and highly focused sense of their own mission. They stress academic achievement and make every effort to avoid distractions. But when teachers are caught in the middle of culture wars, they are expected to make room for an increasingly broad and sometimes contradictory array of moral and educational beliefs. "Every day a principal opens his mail and there are three more requests to teach something else," Herbert Greenhut, who recently retired as a history teacher from Manhattan's Robert F. Wagner Junior High School, complained to the *New York Times*. "Schools are being asked to incorporate all these things at the same time they are looking to improve the basics, such as reading and writing and math."

The good news is that these fights are as unnecessary as they are destructive. They are not, as some people seem to believe, the price of pluralism. Rather, they are a result of a distortion of pluralism, made necessary by the inability of our political and bureaucratic institutions—especially the school system—to accommodate peacefully the increasing diversity of this society. But by reforming our institutions, we can restore genuine pluralism.

True pluralism consists in a set of beliefs, commitments, and institutions that allows different communities, with profoundly different values and customs, to live peacefully and productively in the same place without surrendering those beliefs and customs, except as absolutely necessary to the civic peace or the most pressing of common goods. Pluralism rightly means that groups of people who disagree on questions of profound importance agree not to use those differences as excuses for civil wars or

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uncivil behavior. It means in the proverbial but telling phrases that we "agree to disagree," to "live and let live," even though we live differently.

Pluralism means, certainly, not behaving rudely or uncharitably or brutally to people because of what they do in private. But pluralism is more than the personal virtue of tolerance. It is a civic accomplishment: New York is one of the most pluralistic societies on earth not simply because New Yorkers are a tolerant lot, or because New York is home to many different types of people, but because over the years it has done a reasonably good job (with some spectacular failures, of course) of being a good home to many communities without pressuring them to assimilate before their time, or to sacrifice their fundamental beliefs.

In New York this old, easygoing pluralism is losing out to a new, far more ambitious variety that Professor Fred Siegel of Cooper Union has aptly named "enforced diversity." Rather than asking us to live together in peace despite our deepest disagreements, enforced diversity asks us to surrender, or pretend to surrender, those disagreements.

The "enforced" part of enforced diversity is obvious enough: The school system, for instance, backed by Justice Peter P. Cusick of the State Supreme Court, has refused to let parents "opt" their children out of the public high school condom distribution program, despite some parents' religious objections. And no one asked parents what they thought of the "Teenager's Bill of Rights," prepared by the New York City Department of Health for the Board of Education, which asserts such principles as "I have the right to decide whether to have sex and who to have it with." But where does diversity come in?

Actually we are being asked to make a diversity trade-off. We are to surrender (in effect) our diverse moral and religious beliefs so as to make it easier to accept diverse lifestyles and less likely that we will beat each other up. Rather than the old pluralism of conscious self-restraint (for the sake of the civic peace, I won't ride you out of town on a rail) we are to practice agnostic pluralism (I won't ride you out of town on a rail because we have—or admit to—no disagreements worth fighting over).

The more choices schools can make for themselves, the more choices parents have

This enforced diversity, however, has a narrow scope: It applies especially to sexual mores and restrictions on personal behavior arising from religious principles. About such matters, we are all to adopt, outwardly at least, a laissez-faire position, regardless of the strength of our personal feelings and preferences. On such matters, "yes" is the only right answer, no matter what the question. "No" is always wrong, "no" denies diversity; it "discriminates" where being indiscriminate is de rigueur.

Pluralism always requires effort; tolerance is hard. But under this new notion of pluralism, the sacrifices are all extracted from one side—people, like my neighbors, who have a great personal investment in traditional religious or moral codes, which they are henceforth to treat as unimportant. Thus Judge Cusick can flippantly dismiss the parents who objected to the condom program, saying they have nothing to complain of since "all the program does is expose the children to other ideas on the subject, distasteful as they may be to petitioners."

The attempt to move Heather and her mommies into the first grades of District 24

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is a perfect example of enforced diversity. At first the Heather curriculum may seem to support real pluralism because its stated goal is get kids to behave well toward those who are unlike them. But to ask people not to beat up or discriminate against gays is very different from propagandizing them to change their moral and religious beliefs about homosexuality (or condoms, or abortion, or whatever), which is what the curriculum actually does.

Insisting that all citizens treat gay people decently requires no sacrifice of a legitimate right. Gay-bashing is not a right, it is a wrong. The entire society, more or less, believes it to be so. All the major religions, the primary source of the moral opposition to homosexuality, agree that it is so and that gay-bashers harm themselves, corroding their own characters and endangering their own souls.

On the other hand, to ask people to accept in their own children's schools a curriculum that undermines or contradicts their own deeply held moral beliefs is to ask of them an enormous sacrifice. If Americans do not have the right to maintain, for themselves and their families, moral beliefs taught for millennia by the religions to which between 70 and 90 percent of the population subscribe, then a lot of us are living in the wrong country.

The distress of parents who are told their six-year-olds are to be taught the positive side of homosexuality is sufficient testimony to the sacrifice being required of them. To ignore or slight this sacrifice, or to dismiss as bigots the people of whom it is being demanded, is arrogant and cruel, an act perfectly suited to a modern government bureaucracy. It is not tolerance but moral and intellectual imperialism.

Nor will all this bullying promote tolerance. Tolerance means respecting the dignity of other human beings *regardless* of their beliefs. On the contrary, the implicit message of the new curriculum is that we can be tolerant only of those with whom we are willing to surrender our disagreements. This inversion of pluralism teaches both moral lassitude and intolerance in the same breath, a remarkable feat.

Real pluralism does not ask citizens to make any sacrifices to conformity that are not clearly necessary for the civic peace or the common good. Real pluralism says that any fight we do not really need is a fight we should avoid. Governing by enforced consensus is the furthest thing from living by pluralism. Pluralism is a modest program. The aspiration to consensus is monstrously ambitious, and it produces monstrous fights.

The fights don't promote tolerance either. People hate being pushed around, and they really hate losing. The city's "traditional" communities—especially white churchgoing Catholics, but also black Protestants and traditional Jews—are learning to think of gay activists as blood enemies, rivals in a struggle for cultural and political power that can produce only one winner.

In fairness, the gay activists have reason to believe that they cannot back off, that there is no substitute for victory. Right now folks like those in District 24 may be saying no more than "leave us alone." But really, the gays believe, the Middle Villagers have their minds set on their own all-too-familiar form of moral triumphalism and yearn for the status quo ante Stonewall.

When District 24's rejection of Heather made the news, Matt Foreman, executive director of the New York City Gay and Lesbian Anti-Violence Project, told the *New York Times* that "there are few gay and lesbian people who have not felt the agony of going through grade schools and high schools being taunted by their schoolmates, being beaten up by their schoolmates." A decisive victory in the cultural wars must be an attractive temptation for those who were treated that way. The city's gay activists,

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and the many other supporters of the new curriculum who are neither gay nor activists, would find the notion that they are in some way oppressors incomprehensible. Mary Cummins of District 24 and Ralph Fabrizzio of District 20, they would say, did not have to spend half their lives in a closet.

The belief that there is no substitute for victory, however, does not come only from painful memories of being on the losing side. The true source of the impulse to fight to the finish is a defect in the city's political institutions, especially the school system. Those institutions are not capable of accommodating the city's current extraordinary level of moral, religious, and cultural disagreement.

When school officials justify pushing these sorts of programs on unwilling constituents, one is struck by the practical note they tend to take. So often their explanations come down to: "We couldn't do it any other way." As Tyll van Geel, a professor of education law at the University of Rochester, told the *New York Times*, "We are such a diverse society that it's extremely difficult for schools to come up with a curriculum that doesn't ring somebody's bell." Karen Norlander, a lawyer with the New York State Education Department, was even blunter: "The future of public education would be hard-pressed if we came to a point where a parent could dictate what the child can learn and what the child cannot learn."

One wants to scream: "Well, who the heck else should dictate it, lawyers from the state education department?" But one doesn't because attorney Norlander is right. There is no way a centrally administered school system consisting of a thousand schools and a million students can custom-build an education for the children of every disgruntled parent.

Schools may be timid or bold, but they cannot be neutral: Inevitably they will teach some things and not others, accept some lifestyles and reject others. In choosing norms, should we impose the will of the majority and disregard the rights of the minority? To ask is to answer. On the other hand, the city's scheme for promoting the values of the minority at the expense of the majority makes even less sense. Yet in a centralized, winner-take-all system, some values will win and others will lose. So we fight. The system guarantees it. In a big system in the most diverse city on earth, we will fight like hell.

There is a way out of the dilemma: public school choice. Under choice, parents choose which of the city's public schools their children attend. But schools also choose. They have considerable discretion over teaching methods, curricula, personnel, budgeting, and so on. The more choices schools can make for themselves, the more choices parents have. When parents choose, they vote with their feet on the choices schools have made.

Under a true choice program, Heather and her mommies would make it through the front door of only those schools that invite them, and would be confronted only by children whose parents chose the schools that make them welcome. Overnight, the fight over Heather becomes moot.

Choice might make moot as well the fights over the broader multicultural curriculum, bilingualism, and even condom distribution and birth-control counseling. By contrast, the current school system, in which the parents of a million children are denied control over what those children are taught about some very sensitive questions, is a machine for the creation of conflict. It virtually forbids pluralism, inspiring repeated high-stakes wars of neighbor against neighbor, with unconditional surrender the only acceptable outcome.

The current system, however, does something even worse than making kulturkampf victories necessary: It also makes them possible. It tempts people—mostly

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Choice might make moot the fights over the multicultural curriculum, bilingualism, and even condom distribution and birth-control counseling

bureaucrats but also activists and just plain citizens—with the possibility of power over other people's lives. Centralize power over one million New York City school children, and one successful power play can give control to people who hunger to impose their beliefs on others.

The prospective loss of this power is probably what motivates some opponents of choice. But most opponents have more legitimate fears. Some fear that choice will undermine measures they believe are truly necessary for the civic peace or the common good, for instance, the condom distribution program. That program, under which the schools give out free condoms to students without parental notification or permission, meets vigorous opposition in parts of the city, but its defenders argue it is crucial to public health, particularly the fight against AIDS.

Actually choice helps here, too. If there is a clear and compelling public health argument for condom distribution, the program should apply throughout the high schools, even under a choice system. So far, however, the clear and compelling argument has not been made. Condom opponents claim, for instance, that the public health story is ambiguous, that similar programs elsewhere have raised the level of teenage sexual activity (and pregnancy) and thus do not help fight AIDS. The advocates of condoms, including the chancellor, have not really bothered to reply. They do not need to: With a few votes on the central board, they can have their way throughout the system.

But if it were the custom, as under choice, to leave most important decisions to the schools, then, when the authorities thought it necessary to trump that custom, the political burden would be on them to make a compelling case for doing so. If they cannot, if the evidence is ambiguous, then let citizens make their own judgments and choices, rather than picking a destructive fight for an uncertain benefit. But if the pro-condom evidence were compelling, even parents on the losing side would be happier knowing they had not been treated lightly. If you want to impose a consensus, try building one first.

One of the other common arguments against choice is that it would tend to produce a more fragmented, Lebanonized society, particularly in a city of immigrants. On the contrary, choice is more likely to heal divisions among ethnic and racial groups than to widen them. Take the question of the broader multicultural curriculum. Its proponents believe that teaching New York's school children more about African and Asian culture would not only make for better-educated students but improve the self-image of children of color. Opponents are a tad skeptical of the self-image argument, but certainly not hostile to that goal. And of course they agree that students would be better off for knowing more about the world. Their real fear is that in practice multiculturalism will turn out to be a vehicle for shoddy scholarship or racism. The real argument is about (anticipated) practice, not theory.

Choice would dissolve that argument. Most parents would want to keep what seems sensible about multiculturalism and dispense with the nonsense. Overwhelmingly they would favor schools where multiculturalism meant a better grounding in world

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culture and disfavor those where it meant hatred and philistinism. Being parents, not theorists or activists, they would judge by results, one school at a time. A few schools might attract a constituency for a hateful version of multiculturalism, but they would find themselves preaching to the choir more often than making converts.

By not forcing a citywide consensus on the question, we might find that we actually have one. In the very process of giving people choice, we would not only settle the argument over multiculturalism but increase the likelihood that the answer would come out right.

The moral and cultural issues I propose we put on the back burner, the fights I am suggesting we walk away from, are not trivial. They address some of the most fundamental concerns of human beings. But municipal government, particularly a municipal government often unable to cope with even the routine challenges of urban life, is not the arena within which to wage these battles. Even as the government of New York must learn to concentrate on delivering basic municipal services before indulging in programs no other city in the country even attempts, so also the citizens of New York must learn to stay focused on common needs and the common good, and not be distracted by more visceral but irresolvable disagreements.

Each of us has but so much time and energy. If we accept a system that forces us to fight over condoms, we will not pay enough attention to the debate over new school reforms. If local school board elections are fought, and political coalitions forged, over the questions raised by Heather and her mommies, then those elections will not be fought over how to raise reading and math scores. This is New York. We will always be able to come up with something to fight about if we need the recreation. Until then, let's get back to business.

The Theater: Killed but Still Living

James MacGuire

For almost a hundred years, Broadway has been more than a strip of congested concrete. It has been a New York symbol and an American dream—for awestruck audiences a yellow brick road to another world, and for stagestruck New Yorkers an entry to the Great White Way of life.

Terrence McNally described his introduction to the magic of theater this way, in a speech before the Producers' League:

> As a five year old my working class parents took me from our smallish Texas town to see Ethel Merman in the original production of *Annie Get Your Gun*. They had to sacrifice to do it. It involved money they didn't really have. It involved travel. It involved months of planning. . . . I remember the show more vividly than a show I saw last season. When Merman revived the show many years later, I found myself remembering every line and gesture a moment before they were spoken or sung or made.
>
> And no wonder. As a five year old I had been taken into a world of music and laughter and magnetic personalities and beauty and tears. I was someplace special, some place that was realer than real, some place where the real world stopped and the equally real world of our dreams began. I wanted to stay there forever. I still do.

For every New Yorker who wants to travel to someplace "realer than real," the apparently inexorable decline of Broadway is nothing less than heartbreaking. Original-

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ly at the southern end of Manhattan, the theater district moved northward with the city's population. When Longacre Square became the hub for New York's horsecar and train lines, it became the center of the theater district, too. And with the completion of the subway in 1904, the theaters moved to Times Square.

At least 54 Broadway theaters have been lost since then. The Ziegfield, where *Showboat* premiered in 1927, was destroyed in 1966. The Hippodrome and Alla Nazimova's 39th Street Theater are long gone. The Empire on 40th Street, which opened in 1893 and saw theatrical legends from William Gillette and Sarah Bernhardt through Helen Hayes and the young Julie Harris, finally closed its old doors in 1953 in anticipation of the wrecker's ball. The Gallo Opera House, too, is gone, although it survived its years as a CBS property to reopen in 1976 as Studio 54 and today houses another disco, the Ritz.

The number of new shows each year has dropped even more dramatically. "My first night in New York City," recalls veteran newspaperman and radio personality Jack O'Brien, "was in 1934. I bought a discounted ticket—down from $3.30 to $1.65—to see Ethel Merman at the Alvin Theater in *Anything Goes*. Later I walked up to 52nd Street to hear Art Tatum play at the Onyx Club. That year 135 shows came in. By the time I worked my way up to drama critic for the Associated Press it was the 1943-44 season, and only 97 shows opened." That, in turn, was down from 264 in the 1927-28 season. There has been steady erosion since. In 1967-68 , for example, 58 shows opened on Broadway. Last season, a boom year by modern standards, Broadway played host to half that many productions.

Nationally the theater is in dire shape. According to *American Theater* magazine, half the country's theaters ended 1991 in the red. Eight ceased operation, bringing the five-year total to 25 closed theaters. Expenses rose only slightly ahead of inflation, reflecting a year of no growth. Income failed either to cover expenses or keep pace with inflation. The number of subscribers increased, but single-ticket sales declined, signifying an alarming failure to develop new audiences for the future. Foundation grants rose, such as from the Lila Wallace-Reader's Digest Fund, which became the largest arts donor in the country over the past year, but not enough to close the earnings gap created by sluggish box offices. Meanwhile, federal and state grants fell sharply.

Membership of New York's two remaining theatrical clubs, the Players and the Friars, is in decline, and the third, the Lambs, closed some years back, making the old aphorism newly apposite: "The Players is for gentlemen pretending to be actors. The Friars is for actors pretending to be gentlemen. And the Lambs is for neither."

Veteran theatrical agent Robert Lantz describes the current situation this way: "Can you think of anyone today who has the national position of Katharine Cornell, Helen Hayes, or the Lunts? We don't have any theater stars. Any!"

Broadway's loss of prestige and economic muscle are reflected in the lives of the people who make it work. To enter the world of theater folk is like entering the fun house at Coney Island: All the ordinary laws of human existence seem suspended for the duration of the ride. To a rationalist, or an economist, the stage life makes no sense at all, and sadly, economics is forcing many of Broadway's finest talents to look for a way out.

Consider Connie Ray, for example, who wrote and performed in a hit musical at the Lamb's Theater called *Smoke on the Mountain*. Nevertheless, to keep herself solvent she still had to continue working as a paralegal at Skadden Arps during the show's run. After years of facing that kind of

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financial pressure, when the offer came to star in an NBC comedy series, *The Torkelsons*, she jumped at it.

Kevin Kelley took a more high-minded route to L.A. Determined to stay in the theater when he left the faculty of Julliard (an esteemed faculty position in the theater world but one whose remuneration he was forced to supplement by working as a word processor by the hour), he accepted the post of artistic director of the Los Angeles Shakespeare Festival. Three years and a mountain of debt later, he gratefully returned to New York to work as an acting coach on *Loving*, a soap, and increased his salary exponentially.

BROADWAY

WILLIAM M. H. HAMMETT

Directors, too, have been turned off. Even more than writers they know the truth of the old adage, "You can make a killing on Broadway, but not a living." Megs Booker, an experienced director who learned her craft working with Ingmar Bergman, attempted to tough it out on her own in New York after the Hartman Theater, of which she was artistic director, closed in the late 1980s. She enjoyed several succes d'estime, including a beautiful production of *Three Sisters* by the Pan Asian Repertory Company, but a year ago, after losing her house in Stamford and relinquishing the custody of her two children to their father in Seattle, she finally gave up and was lucky enough to find a new artistic director's position opening up in Sarasota, Florida.

If the situation is grim for the actors and directors, for technical staff it is even worse. Eva Schegulla is a stage manager, who for several years juggled her theatrical work around her day job in international marketing at Abbeville Press. When she took the bold step to launch out into the theater full time, the producer of her first show absconded without paying salaries and the union bond bounced, leaving the cast and backstage crew deep in debt and obliged to prosecute a lawsuit with no certainty of successful recovery of their just deserts.

Anne Davis is a set designer who persevered through years of backstage sexual harassment to establish herself. She lost thousands of her own dollars in a similar fiasco with an unscrupulous producer, as well as her backup job in a costume shop. Today she makes ends meet by costuming heavyweight wrestlers, including Hulk Hogan.

Such a state of affairs has a particularly dampening effect on the most important group in the theater, the producers. *Jerome Robbins' Broadway* won six Tony awards and played to 90 percent of capacity for two years. But its expenses were so high that when it closed it had earned back only $4.8 million of its $8.6 million cost, leaving its investors dependent on a national tour to break even.

Historically, the great engine that drove the New York theater business was that hundreds of playhouses across the country were supplied with shows "direct from New York" by fiercely competitive producing firms like the Shuberts and Klaw and Erlanger's Theatrical Syndicate. This forced such firms to build theaters in New York City for their exclusive use. As the demand for new material skyrocketed so did the number of new theaters, nearly ninety of them built in the fifty

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One of the patent absurdities of the present Tony award system is that Off-Broadway shows are not eligible for the awards

years up until the Great Depression.

That world is gone, and a different set of economics dictates the growth (or lack of it) of the theater in New York today.

With landmarking, the Broadway theaters should physically survive, but it will take ingenuity to fill them. In an age of octoplex movie theaters, 132 channel cable television systems, and the now omnipresent VCR, people can watch stars perform in their living rooms at a fraction of the cost and without the bother of coming down to old Broadway.

Thus, when people do come to the theater, it is in search of something more. And this explains why in the 1990-91 season musicals accounted for 67 percent of attendance and 75 percent of gross receipts. Those who can afford it will come, if what they are seeing is bigger, brighter, and flashier than what they can see at home.

If times are so hard, what is the answer? To flourish, Broadway needs three things: a more glamorous setting, lower costs, and a continuing flow of artistic energy.

Today's theater district is a gem (in more than a little rough), an environment more gritty than glamorous. The Times Square Redevelopment Plan has been stymied by the regional recession and consequent construction halt. The Times Square of the 1950s, replete with delis, automats, newspaper stands, cigar shops, and nightclubs, is gone. Little old ladies no longer sip their noontime martinis as black-uniformed waitresses swirl around them at Schraffts. The Stork Club is gone, and while Vincent Sardi is gallantly attempting a resurrection of his venerable haunt, much of the area's character has been lost. Today's Times Square is not so much a flashy honky tonk as a menacing collection of strip joints, pornography shops, pimps, drug dealers, muggers, and street people, which only serves to discourage the potential theatergoing audience further.

High costs, on the other hand, discourage both audiences and innovation. Theaters are expensive to operate and maintain. The landmarking laws have restricted the theater owners' options. Those stars who do make it onto Broadway in this day and age have agents who expect them to be paid salaries equal to Michelle Pfeiffer's latest film deal. Added to this are the extremely high union costs involved in putting plays on Broadway. Mega-hit producer Cameron Mackintosh gets agitated discussing the subject of wildly disparate union rules and wage scales between New York and London:

> Union costs in London are much lower than in New York. It's ludicrous to have house minimums for musicians in New York. One of the reasons I couldn't go into the Broadhurst with *Five Guys Named Moe* is that that theater has a 16-man minimum. Part of the point of *Five Guys* is that there are only six musicians. It's madness to pay for another ten musicians just because the union says so. That would never happen in London. There, if you only need a pianist, then you pay for the pianist.
>
> Then there's the crewing here—how many people it takes to get the set in and run the show. In England you pay for what you want. If you need twenty men for the first few days and then three or four for the next, you can do that. The demarcation here between someone who can pull a curtain and someone who can press a button is just not reasonable. I know the unions are there to protect their membership, but the

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only thing that really protects the membership is if the theater is healthy.

To survive over the long term, Broadway must cultivate a newer, younger generation of theatergoers. Lower costs would not only allow more shows to turn a profit, and encourage innovative productions, they might allow lower ticket prices, opening up the Great White Way to New Yorkers with ordinary pockets and without corporate subsidies.

But, as important, high costs tend to stifle the artistic ambitions of playwrights, directors, and producers. In the end, Broadway is not driven by economics so much as by imagination. To encourage a new generation of dreamers, and ensure a steady influx of new shows, the three major theater organizations have combined with the unions to create the Broadway Alliance, a consortium to put on shows that otherwise would never get to Broadway. So far it hasn't worked terribly well. The alliance's one critical success, an acclaimed production of *Our Country's Good*, did not last long, but the mere fact that it got produced at all was a testament to the industry's willingness to try new approaches. Others, including Mackintosh, Manhattan Theater Club, and Lincoln Center have formed the Alliance for New Musicals—in effect nurturing and bankrolling the development of promising ideas—to assure the flow of future productions in that genre.

The Producers' Group is another organization that meets regularly to network and discuss innovative strategies. A younger generation is emerging, including Elizabeth Williams (*Les Misérables, Into the Woods*), Michael David (*Guys and Dolls*), and Valerie Gordon (*Crazy For You*). Additionally, entertainment companies and overseas corporations are increasingly coming onto the Broadway scene, to sew up ancillary rights at an early stage by investing relatively small upfront funds in the original productions. These are all positive developments.

Meanwhile, one of Broadway's secret weapons is Off-Broadway, which continues to be a place where dreams can come true outside of the inflexible wage scales and other vagaries of doing business on the Great White Way. One of the patent absurdities of the present Tony award system, in fact, is that Off-Broadway shows are not eligible for the awards. They should be.

Off-Off Broadway, if not a living either, is also the lifeblood of the theater and a gold mine of new talent. The *Times* lists as many as forty shows going on around town each week. These range from the laughably bad (I remember an Australian play about a drugged racing greyhound which, along with the fleas in the theater on East Third Street, rendered one Valentine's night decidedly unromantic) to the outright dangerous (Dr. Mwambozo's performance in the Polysexuality Conference at The Kitchen in 1981 came to a quick end when the deranged looking Doc gashed himself in the neck with the jagged glass from a scotch bottle he had just broken, and then overturned a newly slaughtered calf's head, so that the hundred mice trapped inside it could escape into the audience; as the ultrahip-downtown-audience-turned-terrified-mob stampeded for the exits, Dr. Mwambozo emptied his pistol in their direction shouting, "This is art").

Yet Off-Off Broadway has often played an invaluable role in showcasing new talent and daring productions. This is the 25th anniversary of the death of Joe Cinno, who started Off-Off at his tiny cafe on Cornelia Street. John Guare remembers:

> Cafe Cinno was an extraordinary place. Cinno was a steamfitter working in a laundry from 7 A.M. to 4 P.M. Then he went into his kingdom, his little paradise on Cornelia Street, and turned on the lights. It was an insane attic filled with Christmas lights and photographs of movie stars. I didn't know him, but when I got out of the Navy I

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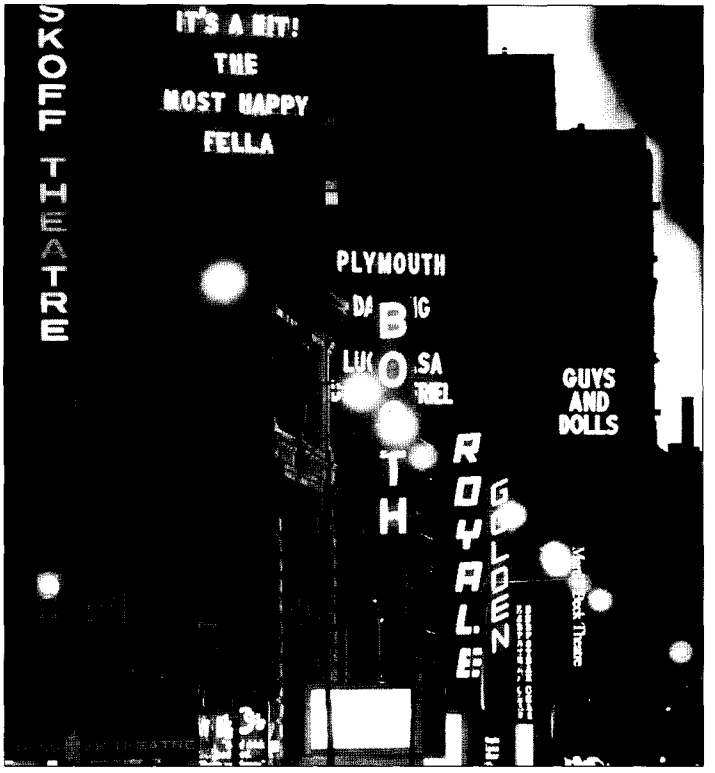

LEE ROMERO/NYT PICTURES

BROADWAY

brought these two plays there while he was getting ready for a show. "I'm sorry," he said, "but we're only doing plays by Aquariuses." I said, "I can't believe it. My birthday is February 5th. I'm an Aquarius. Here's my driver's license." He looked at it and answered, "All right, you open the second week in October."

As much as it needs Broadway, the theater needs the likes of Joe Cinno, Joe Papp, and Ellen Stewart (of nearly bankrupt La MaMa) who will stand behind tomorrow's stars, struggling to emerge. Without them the great moments of theater will be harder to find.

What are the great moments? Everyone has his own, of course, but my list of the past dozen years would include Ian McKellan's electrifying portrayal of Salieri in *Amadeus*, with the stunning final transformation of his face into a mask of death as the lights fell. Zakes Mokae's as the waiter Sam in Athol Fugard's *Master Harold and the Boys*, mournfully telling young Harry that by spitting in Sam's face Harry is really hurting himself, underlined the tragedy of apartheid in a way no news report ever could. Elizabeth McGovern was an enchanting Helena in the Public Theater's Bahia-based *Midsummer Night's Dream*, the most successful production of its Shakespeare cycle. And for towering performances, I will never see *Cyrano de Bergerac* again without remembering Derek Jacobi's stunning performance in the role in the fall of 1982.

As for this year, there are many feasts. A gifted artist who gives the lie to Robert Lantz's claim that there are no theater actors is Philip Bosco, and he teams with Vincent Gardenia and Karen Valentine to provide a riotous evening in *Breaking Legs* at the Promenade that proves yet again how wrong the critics can be. Another theatrical actor who has blossomed in recent years is Nathan Lane, nominated for a Tony Award for his portrayal of Nathan Detroit in *Guys and Dolls*. Harry Groener, who left the Rialto for prime-time TV in 1988, returned triumphantly as the star of *Crazy for You*, garnering a Tony nomination. (The actual award went to Gregory Hines for his sensational performance in *Jelly's Last Jam*.) Brian Friel's *Dancing at Lughnasa* richly deserved its Tony as best play. Blue Man Group put on the culmination of all downtown performance pieces at the Astor Place Theater on Lafayette Street. Gene Hackman lent presence to a poorly directed version of Ariel Dorfman's *Death and the Maiden*. *Five Guys named Moe* was short and good-humored, and gave the theater district a cheery new musical bar, so how bad could it be? And although he narrowly

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missed a Tony nomination, Spiros Malas won Broadway's heart in the Goodspeed Opera's production of *The Most Happy Fella* at the Booth Theater.

In fact, there are recent, astonishing signs that audiences are responding once again to the magic of theater. There were 26 shows playing on Broadway this spring and another twenty-five playing Off-Broadway. These numbers are about double those for 1991. In the last week of April more than 220,000 theater tickets were sold, more than in any single week since 1981. Box office receipts for the entire month of April were the highest of any four-week period in theater history. And this had a positive impact on the entire neighborhood. Local restaurants reported a 25 percent increase in business.

The Republic, a theater built by Oscar Hammerstein and later taken over by David Belasco, was where *Abie's Irish Rose* had a run of 2,327 performances in the 1920s (with the help of discount tickets sold through Gray's drugstore chain), and may be the first of the converted theaters to come back. Reopened by Billy Minsky as a striptease establishment, and later used as a porno theater renamed the Victory, the theater has been returned to showing Hollywood triple features. In 1990 the Durst Organization cleaned up the theater for the limited engagement of *Crowbar*, the first live drama on 42nd Street since 1950. If the Times Square redevelopment goes according to plan, the Victory, its oldest theater, should be the first of Broadway's lost theaters to be found.

Broadway may just be in the midst of one of those inexplicable comebacks, proof that, in the theater, anything can happen.

Those inclined to be pessimistic about Broadway's fate should remember the tale of the late J. P. McEvoy, a playwright who wrote several of Ziegfield's *Follies* in the 1920s. He then made the terrible mistake of backing his own play. It flopped. Facing financial ruin, he decided to do the rational thing and commit suicide. Retiring from the Algonguin Round Table after lunch one day, he went upstairs and opened the bedroom window. It was late in October, and the year was 1929. At just that moment, a window opened in the hotel across the street and a body flew out head first, fell to the ground, and was surrounded by a crowd. "Just a moment," McEvoy said to himself, backing away from his window.

As he always did at moments of crisis, he took a nap and at five returned to the lobby to look at the evening papers. Thumbing through one, he got to page 46, where a discreet headline read, "Wall Street Broker jumps to his death on 43rd Street."

"Hmm," McEvoy grumped, "for page 46, it's not worth it."

He lived and wrote for another thirty years.

The New York theater often seems close to committing suicide, too. Although, as Cameron Mackintosh says, it is a resilient beast. The theater districts of other American cities are long since gone, after all, while here in New York the industry struggles on.

A season like the present one, combined with a few simple steps on the part of self-interested (public and private sector) participants, can help it continue to do so. More union wage-scale concessions, additional incentives for producers, lower ticket prices, the completion of the Times Square redevelopment scheme, and expanded young audience programs are the elements of a good start and within reach. For all the energy, the glamour, and the magic Broadway hath wrought, the theater should do more than endure in this town: It can and should prevail.

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IN APPRECIATION

Tomb with a View

A VICTORIAN CEMETERY FOR NEW YORK'S ELITE

Maggie Gallagher

Nestled in what was once rolling farmland, in among Park Slope, Sunset Park, and Kensington, lies one of the buried treasures of Brooklyn, a monument to the city's industry, intellect, and enduring desire: Green-Wood Cemetery.

In the 1840s, when Green-Wood Cemetery was born, Brooklyn was but a village surrounded by acres of farmland. Today, outside the Victorian ironwork fencing, the city's never-ending struggle between urban bustle and urban decay presses up against the very gates. But step inside the 474-acre estate, and you enter a very different world, of peacefully rolling hills and uneasily roiling ambition suspended, in an artificially eternal peace, by death.

The New Yorkers enshrined here include famous artists and artisans (among them George Bellows, William Merritt Chase, both Currier and Ives, Duncan Phyfe, several generations of Steinways, and Louis Comfort Tiffany), captains of industry (such as Charles Pfizer of pharmaceutical, and William Colgate of toothpaste fame), founders of three New York newspapers (including Horace "Go West Young Man" Greeley and Henry J. Raymond of the *New York Times*), and statesmen and scoundrels from Boss Tweed to Henry Ward Beecher, not to mention historical curiosities, such as George Washington's dentist and Whistler's father.

Among the fallen luminaries is Major David Bates Douglass, one of the founders of Green-Wood, who had high hopes for a multipurpose cemetery. An engineer, he reshaped its hills into more picturesque forms, schemed to place an astronomy lab which, alas, never materialized, at the cemetery's highest point, and vetoed the name "Necropolis," opting for the more pastoral "Green-Wood" in its place.

At 474 acres, Green-Wood was huge for a people used to burying their dead in the small, crowded churchyards that New York City banned in 1837 for public health reasons. Drawn by its leafy promise of peace, New Yorkers spent Sundays frolicking there, enjoying a respite from crowded city tenements; in fact, its green pastures and sculpted lakes served as an inspiration for Central Park.

But business of a more permanent kind was at first harder to find. Henry Pierrepont, who laid out Brooklyn's streets, together with engineer David Bates Douglass took on the task of stirring up interest in the novel idea of having one's final resting place be so far from the maddening crowd. To stimulate business, they offered free burial plots to "interesting" corpses, such as Do-Hum Mee, a visiting Indian princess. It wasn't until 1844 when DeWitt Clinton, "the Father of the Erie Canal," was brought down from his grave in Albany to be laid to rest anew in Green-Wood under a lifesize marble statue of himself clad in a toga, that the cemetery's reputation as a fashionable burial ground was finally clinched.

By 1866, Green-Wood's popularity had reached such a pinnacle that Henry J. Raymond could write that "Greenwood [sic] is as permanently associated with the fame of our city as the Fifth Avenue or the Central Park. . . . It is the ambition of the New Yorker to live upon the Fifth Avenue, to take his airings in the Park, and to sleep with his fathers in Greenwood."

Since then, Green-Wood may have fallen somewhat in fame, but not yet in beauty.

Maggie Gallagher is a senior fellow at the Center for Social Thought.

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Its ornate Gothic brownstone entrance gates, whose earthen towers soar 106 feet into the sky, were designed in 1861 by Richard Upjohn (who also designed Wall Street's Trinity Church). A weeping willow, that favorite Victorian symbol of mourning, stands nearby, its arms eerily bereft of leaves.

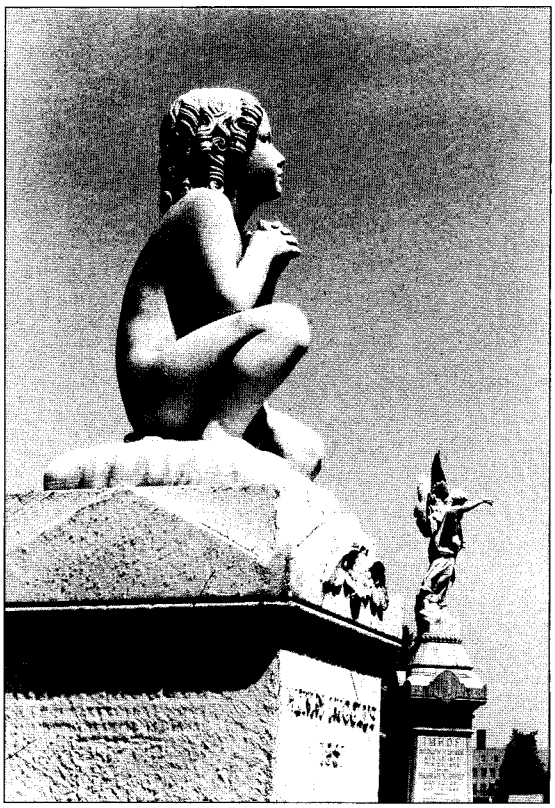
Across the opening lawn, the newly dead lie in neat, modest rows. Here, in the polished stones embedded in emerald turf, lies New York's gorgeous mosaic of yesteryear: Criscuolo and Concetta, Kortez and Kraus; Hakon Syre buried next to "beloved brother" Thorleif; Edward and Christina, married 1929, "Together Forever," but not yet.

Cross into the older sections and you enter a different world, filled with a previous century's pretensions: tombstones give way to solid, substantial homes for the dead with an air of permanency, remnants of a time when the living were nearby and kept watch on the family dead.

The monuments in Green-Wood are so large and impressive because, for the Victorians, the cemetery was a living theater of grief, where the living came to contemplate not only the past, but the future. The Victorians not only romanticized grief, they aestheticized it—made it an object of contemplation and extracted from it an exquisitely painful beauty.

How does one meet death? Frederick Siefke, born in Vorbruch, Hanover, Germany in 1818, meets it with a 15-foot monogrammed tower crowned like an angel on a Christmas tree by a lifesized girl, long ringlets flowing down her back, one arm draped against an anchor, the outstretched fingers of her other arm pointing optimistically upwards. John Matthews, the soda fountain king, is buried like an ancient warrior in a Gothic tomb, replete with friezes to detail his life and gargoyles to ward off evil spirits.

Some did not wait for death. William Niblo, who died in 1878, specialized during his long lifetime in staging theatrical extravaganzas. He was also fond of hosting more intimate dramas replete with food and wine, in which invited guests would luxuriate on the lawns before his own as-yet-unoccupied tomb. Similarly, John Correja, a sea captain, commissioned a white marble statue of himself in full-dress uniform, shooting the sun with his sextant, and then often brought his friends with him to admire his chiseled features and contemplate his impending doom.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GREEN-WOOD CEMETERY

Wandering Green-Wood's verdant hills, one is struck by the sad realization that even the dead are subject to the tyranny of fashion: Here a corner of the hillside is covered with identical miniature Washington Monuments, or pedestals topped with gracefully draped urns; there an eruption of angels breaks out, angels shaped to the Victorians' odd liking—young, feminine, and unbearably sad, with cascading curls and faraway looks in their eyes.

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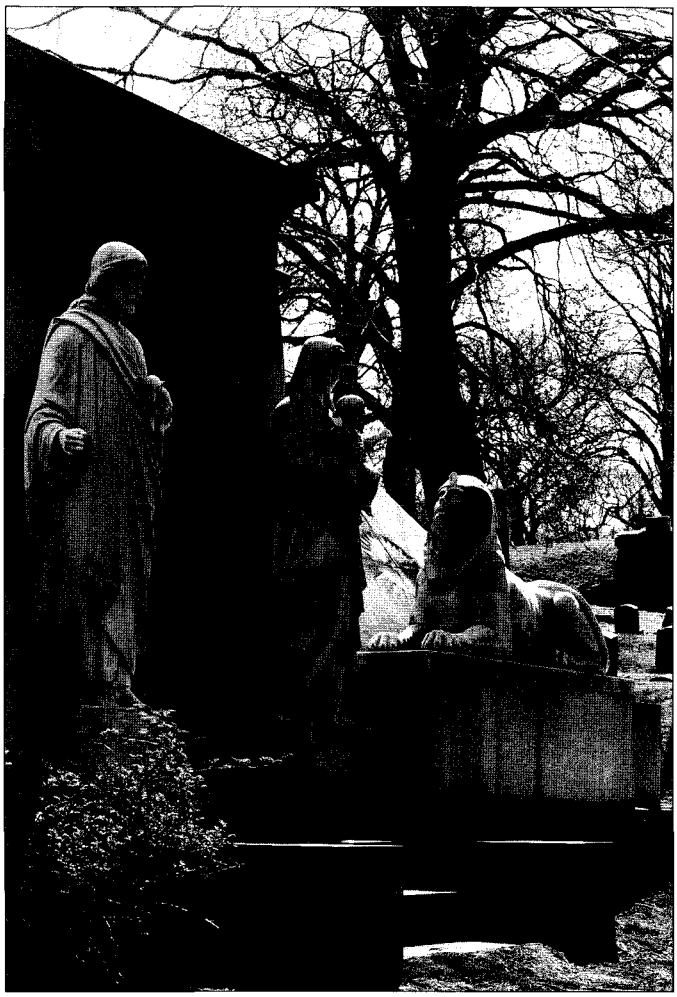

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GREEN-WOOD CEMETERY

Purity in the pre-Victorian age meant pure mind, pure reason, the rational will freed from the corrupting effects of emotions of the heart and passions of the body. For more than a thousand years, angels, who are pure spirit, were portrayed as stern, beautiful men in the classical tradition: reason made visible, the mind taking wing.

To the Victorians, steeped in Romanticism, purity became an attribute of the heart rather than the mind or the will, an attribute of mothers and virgins, rather than fathers and warriors. They reimagined angels as women capable of evoking the deepest emotions of men.

And then, here and there, are the anomalies, the other angels, far from girlish, breathtaking and disturbing in their tumultuous beauty, so enticing one could hardly have imagined encountering such temptresses in a cemetery: a pre-Freudian commingling of Eros and Thanatos, slinky sirens of death.

After the angels, it is the Victorians' mausoleums that impress. They are decorated with stained glass and imposing bronze doors, including a set designed for the Gardner family by Augustus Saint Gaudens on a tomb laid out by the notorious architect Stanford White. The dead are neatly arranged in airtight bunkbeds, like the sleeping cars of old-time trains. Rounding a corner of a hillside, one suddenly meets a crowded subdivision of gray granite tombs, funereal row-houses blossoming under a bower of cherry trees. Looking down commandingly over the modest Sunset Park neighborhood toward the bay, they offer their owners, still hungry for status long after all other hungers are laid to rest, that rarest of New York real estate: a tomb with a view.

The Van Nuss-Parsons family erected the only Egypto-Christian crypt in the lot. On one side, an impressive big-breasted sphinx gazes impassively at an even bigger eccentric pyramid. On the other side stand an equally impressive Madonna and child. The baby, looking to nurse, also seeks his mother's eyes, while she, distracted by death, stares at the dark mysteries there entombed.

There is still a peekaboo view of the harbor, a glimpse of church steeple, but for the most part this cemetery, which was originally inspired by the rural cemetery movement, has, over the years, involuntarily become part of an urban landscape. The for-

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sythia and cherry blossoms almost, but not quite, obscure the industrial power plant set smack next door.

The age of the Renaissance man, so marked a feature of American life when Green-Wood was launched, has (perhaps) drawn to a close. Such men as DeWitt Clinton, champion of the Erie Canal, president of the American Academy of Art, and discoverer of a new species of fish and a native American wheat to boot are rarities in any age. But the grand and gracious vision of New York these men inaugurated remains a presence within the walls of Green-Wood, a tribute to the dead and a tocsin to the living, a clear and convincing testimony to what is possible to men who dare first to dream, and then to build.

Letter from Brighton Beach

Keith Elliot Greenberg

The Brooklyn neighborhood of Brighton Beach has long been a magnet for Russian Jews—most recently, for some forty thousand of them who have come since the Soviet government began liberalizing its emigration policy in the mid-Seventies. The influence of the new Russians (most actually came from Ukraine, but identify themselves as Russian) is pervasive in this neighborhood, now known as "Little Odessa by the Sea." At Brighton Beach and Coney Island avenues, in the shadow of the Parachute Jump and the Wonder Wheel, Mrs. Stahl's Knishes offers a Russian-language menu, and the Black Sea Bookstore sells literature from the old country. A nearby laundromat has a concession stand featuring Soviet coins and Russian samovars used to heat water for tea. Brighton Central Video offers Russian tapes for rent, alongside such domestic fare as *Scarface* and *Straight Out of Brooklyn*.

At the Odessa nightclub, as at other neighborhood clubs, immigrants gather to partake of vodka, borscht, blintzes, and caviar and hear the work of local musicians like Willy Tokarev. He sings standards such as "Evergreen" and "I Left My Heart in San Francisco," as well as original compositions like "Tractor Driver's Son" and "Fisherman's Song" (about fishing off the Starrett City Bridge). In the late Eighties, cassettes of his songs about the Russian émigré experience became popular on the Soviet black market, and in a gesture of glasnost he was invited home in 1989 for a concert tour.

Not everyone is happy about the growing influence of Russian culture in Brighton Beach. In fact, there is a generation gap between the Soviet refugees and the Russian Jews who settled here early in the century after fleeing the czar. The old-timers speak Yiddish and follow the rituals of orthodoxy; the newcomers are Russian-speaking and were raised as atheists. The Soviet refugees admire Ronald Reagan; their octogenarian cousins are loyal Democrats. The elderly also reproach the young for drinking too much, for accepting food stamps when they first arrive, and for flaunting their wealth once they become established. Another complaint is that with all the Russian spoken in Brighton Beach, the old-timers feel as if they are no longer in America. Some of the younger Russians acknowledge their own impatience with the language gap: "I speak too much Russian," confesses 48-year-old Leonard Zouborev, a wholesaler originally from Minsk. "I can go a week without saying a single English word."

Longtime residents have fond memories of the old Brighton Beach. In the Sixties, the neighborhood had been "idyllic," according to Pat Singer, the fiery half-Irish,

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half-Jewish director of the Brighton Neighborhood Association. Singer, a second-generation Brighton Beach resident, would escape the summer heat with her children by sleeping on the beach, cooled by the ocean breeze and unconcerned about crime. A mile down the boardwalk, Steeplechase Park, the last of the three big Coney Island amusement parks, remained open until 1965. Attendance was robust at the Brighton Beach Baths, a 15-acre facility featuring swimming pools, mah-jongg games, and handball and tennis courts. Elderly Yiddish-speakers sat on milk boxes in front of their homes until long after midnight, arguing politics and listening to Mets games on the radio.

But the old neighborhood, recently romanticized by Neil Simon, was deteriorating by the time the first Soviet refugees stepped off the plane in the Seventies. The social fabric of the area began to fray when the Lindsay administration undertook to build low-income housing in Coney Island. Some property owners, hoping to cut their financial losses in leaving, arranged to have their homes and businesses professionally torched. By the early Seventies, drug addicts and hoodlums from Coney Island were victimizing the elderly in Brighton Beach, forcing many to abandon their milk boxes. Some stayed indoors; others moved to Florida. Younger people went to Staten Island or New Jersey, and beloved neighborhood characters died of old age.

But while native New Yorkers viewed Brighton Beach as a neighborhood in decline, Soviet refugees from Odessa saw it as a land of opportunity. Its Jewish population and low rents made it comfortable and affordable. And the Atlantic Ocean reminded the newcomers of the Black Sea.

Vladimir Lobas, author of *Taxi From Hell: Confessions of a Russian Hack*, arrived on a cold, sunny day in 1974. Despite the chill, the elderly were outside on beach chairs. "It seemed like a city of old women," Lobas recalls. A sheet of ice extended past the Brighton Beach Baths, down Coney Island Avenue, and, it appeared, all the way into the ocean. Yet Lobas got a warm reception from New Yorkers eager to welcome a lost generation of Jews emerging from behind the Iron Curtain. The Flatbush Yeshiva waived its tuition for Lobas's son and provided free books and transportation.

Word of the New World's generosity soon spread throughout the Old Country, and a huge population shift ensued: Between 1977 and 1980, 25,000 Soviet Jews arrived. "All the Russians come to Brighton Beach," Zouborev says. "I came because I thought I might see somebody I knew." Legend has it that a Jewish neighborhood in Odessa emptied out one morning and everyone moved to Brooklyn.

The new arrivals had a swift and salutary effect on the neighborhood. The hearty young Russians hung out in front of their buildings until late at night, intimidating muggers partial to frail, aged victims. The newcomers started businesses and rented vacant storefronts. Their children frolicked on the beach. The "good old days" were here again.

But the longtime residents found their new neighbors to be a mixed blessing. Senior citizens complained that their quiet buildings had been taken hostage by loud families, who slammed doors, cursed, argued in the halls, and threw vodka bottles into the incinerator and disposable diapers out the window. Whenever something disappeared—a pair of sneakers from the beach or a tip from a restaurant table—old-timers accused the new Russians of having "magnets for fingers." Decades of deprivation under Communism had taught the immigrants bad manners: In the supermarket, they pulled items from other people's hands, forced their way into line, and pushed and shoved all the way to the cashier. "They didn't understand

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WILLIAM M. H. HAMMETT

BRIGHTON BEACH

that toilet paper would still be there tomorrow," Singer says.

The two immigrant generations also differed on matters of politics and religion. The elderly Russian Jews are almost all liberal Democrats; in the Twenties, many were involved in unions or even socialist organizations. By contrast, the younger generation's political views center on anti-Communism.

The old-timers had no reason to be anti-Communist: Their enemy in the Old Country had been Czar Nicholas II, and many found the Bolsheviks an attractive alternative. Having left before Communism took hold, they watched events in the Soviet Union from afar, feeling pride in the many Jewish heroes of the Russian Revolution: Yakov Sverdlov, the first president of the USSR; Lev Mekhlis, a high Communist Party official; and Lev Davidovich Bronstein, also known as Leon Trotsky. Even after Trotsky was exiled to Mexico and Stalin had purged most Jews from the Soviet hierarchy, the lefties in Brighton Beach remained dedicated to the Russia they imagined. When Franklin Roosevelt introduced the New Deal, they converted, enthusiastically embracing the Democratic Party. They prayed for FDR in their synagogues, and a Brighton Beach Avenue eatery was christened the New Deal Restaurant.

Meanwhile, in Kiev and Odessa, no one was romanticizing Trotsky any longer. "We saw the consequences of his 'brilliant' theories: misery and failure," says Felix Andreev, 58, host of a Russian-language program on WKRB, the radio station of nearby Kingsborough Community College.

Thus, the young Russians developed political views quite different from those of their elders. When they arrived in Brighton Beach in the late Seventies, they were sorely disappointed with Jimmy Carter, whom they saw as unable or unwilling to stand up to their former oppressors. "Carter treated the Bolsheviks like people instead of beating

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them with a stick," Andreev says. "In Brighton Beach, they thought he was a half-wit and a sissy." The new citizens voted overwhelmingly for Ronald Reagan.

The established Democratic clubs had taken it for granted that the new Jewish voters would deliver themselves to the party. Instead, the GOP made an incursion into the neighborhood, setting up registration tables on the street and boardwalk. The effort was so successful that when Singer recently asked a favor of a Democratic politician, he replied, "Who cares about Brighton Beach? They're all Republicans anyway."

The younger generation's religious attitudes were shaped by their atheistic upbringing. Before Communism, Eastern European Jewish life had revolved around the synagogue, even during times of severe persecution. Jews often lived in insular villages or ghettos called shtetls. They spoke their own language, Yiddish, and avoided relations with outsiders. But the Soviet government, eager to unify the masses under the banner of Bolshevism, crushed these traditional social structures that had kept the faith alive.

Thus, the Soviet Jews have been influenced by the prevailing culture in their homeland. They consume a lot of vodka and do not follow Jewish dietary laws. The effects of this cultural transformation are evident on the streets of this once devoutly Jewish community, where now only two kosher butcher shops remain. Since the Russians arrived, the neighborhood has experienced a phenomenon once unimaginable—Christmas tree sales on Brighton Beach Avenue. It has been a difficult adjustment for the elderly Russian Jews. They had earlier absorbed smaller waves of immigrants—Holocaust survivors after World War II and Israelis in the early Seventies. Those groups, however, had at least minimal religious training, so they shared a common experience with their Jewish-American neighbors.

Yet although the new Soviet immigrants remain isolated from their religious traditions, they still think of themselves as Jews. For them, being Jewish means having suffered persecution at the hands of the Communists. An immigrant grocer was once taken to task by religious customers for displaying a kosher sign over a case containing pork products. The shopkeeper told them he had endured life as a Jew in the Soviet Union, and that made the store kosher enough.

If Communism succeeded in raising a generation without religion, it was far less successful at quashing the Soviet Jews' entrepreneurial spirit, the drive that spurred many to come to the United States. "To go to America is to go to your dream," Lobas says. "Every dentist in Kiev knows that a dentist in Brooklyn makes more money than the American President."

Many of the Russian immigrants arrived in this country with only a few hundred dollars in their pocket, plus a sense of adventure and the feeling that they had little to lose. Their willingness to take risks has brought them great success: More than half the businesses in Brighton Beach are now owned by the new immigrants.

On a Thursday afternoon in the Brighton Neighborhood Association's storefront office, Leonard Zouborev is helping his friend Ilya Epshtyen, who wants to start a business. With Zouborev translating, Epshtyen tells Pat Singer he wants a permit to take photos of tourists in Central Park.

"In Central Park?" Singer asks incredulously. "I don't think you can do that."

"Why not?" Zouborev responds, his voice betraying a hint of contempt for the American's caution. He's already made some inquiries and has everything figured out. The city will grant such a permit, but only to a veteran. He wants Singer to find a veteran willing to apply for the license.

Singer is hesitant. "You were granted political asylum. Why don't you go through

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traditional channels? Maybe the city will make an exception."

Zouborev shakes his head from side to side. A confused Epshtyen asks what is being discussed, but Zouborev waves him off. "I have another idea," he tells Singer. "Please, write a letter to Donald Trump."

"To Donald Trump?"

"Yes, my friend wants to put a wax figure of him in Trump Tower, and take pictures of tourists standing next to it."

BRIGHTON BEACH

© MICHAEL SPANO

People in the office are laughing. Someone mentions that Trump's ego is so big, he'll probably embrace the proposal. Zouborev nods. "This is why Russian people make money," he proclaims.

In his book, Lobas tells the story of his old friend Misha, who had risked life imprisonment by selling foreign currency on the black market in Kiev. When Lobas met him again in Brooklyn, Misha was operating a hot dog stand on Coney Island and Brighton Beach avenues. He later bought a fish store in decrepit East New York. In the early Eighties, Misha began investing in real estate, re-selling his property for healthy profits. Then, when the western world became fascinated with the unraveling Soviet empire, he purchased one of Kiev's most elite hotels. Americans now pay him $140 a night for a room in his hometown.

The Russians flaunt their wealth, with gold chains and pinky rings, fur coats and cellular phones that lie alongside vodka tumblers in the local nightclubs. This aggravates tensions with the old folks, who lived through the destitute Seventies and aren't doing much better today. One elderly woman gripes that the new immigrants are unwilling to shlep—a Yiddish term which, in this context, means earning their keep through physical labor. Instead, she says, they operate. In other words, the newcomer does better than his neighbors because he uses his Yiddishe kop—his calculating Jewish brain—even though his neighbors are the ones who speak Yiddish.

The shrewdness of the new Russian immigrants has a dark side. While the vast majority are law-abiding, a few continue to maneuver as if they're still in Odessa, a Ukranian port city known for its gangsters, con men, and thriving black market. Indeed, the Soviet authorities encouraged gangsterism in the New World, by allowing some career criminals to emigrate as Jewish refuseniks and limiting the amount of money émigrés could take out of the country. "We could bring only five rubles," Lobas remembers. "So everybody [smuggled] things to sell abroad—cans of caviar, gold, small diamonds, whatever."

In Brighton Beach, members of Organizatsiya, the so-called Russian Mafia, sell phony driver's licenses, credit cards, gold

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coins, food stamps, and Social Security cards. They engage in a variety of swindles, mostly victimizing their fellow Russians. For example, counterfeiters are known to approach aspiring entrepreneurs with two legitimate $100 bills and the challenge, "I bet you can't tell which of these is fake." When the victim admits that he cannot, he is sold on purchasing a hundred amateurishly printed counterfeits for the "special rate" of $18 a bill. In another scam, a gangster will take over a gas station and immediately put it up for sale. The buyer is shown fake tax forms and ledger books, suggesting that business is booming. After making a $70,000 down payment, the victim discovers that he can't cover expenses, and the mobster reclaims the business and again advertises its availability.

Sometimes things turn violent. Nightclub workers must remain alert for drunken gangsters who pull out their pistols either in celebration or anger. This past January, the gunplay received citywide attention when Vyacheslav Lyubarsky, 49, and his 26-year-old son, Vadim, were shot to death in their fourth floor hallway. Authorities say the elder Lyubarsky had once helped stage a false jewelry robbery in Chicago in an attempt to collect $750,000 in insurance. In 1985, he and three other defendants were sentenced to four years in prison for a conviction under the federal Racketeer Influenced Corrupt Organizations (RICO) Act. After being paroled in 1988, he ran into some trouble with his colleagues when he failed to pay a $40,000 debt incurred in a card game. Lyubarsky allegedly was punished for his delinquency by being strung from a ceiling light in his store, but he later gained a measure of revenge by shooting and wounding one of his assailants. When Lyubarsky paid for his transgressions with his life, his neighbors were not shocked by the slaying. When you play by his rules, they reasoned, that's the way you end up.

Far more distressing was the death one week earlier of Leonid Vinokur, a 46-year-old carpenter shot in the head defending his wife as three muggers set upon her outside the Odessa nightclub. Had the attackers been Russian, the community would have found a way to deal with them. But these were outsiders, the same kinds of people who terrorized the elderly in the mid-Seventies. In this age of crack cocaine, violent street crime threatens to become more common.

Brightoners are pondering ways to halt the trend. One option is refurbishing the Brighton Beach Baths, whose annual membership has plummeted from 13,000 to a mere 1,600. The management has tried everything to bring in new blood, even inviting the Russians in for the day for free, but the immigrants prefer the ocean over swimming pools. So Hy Cohen, manager of the baths, wants to build ornate condos, 18 to 29 stories high, on the site.

Those nostalgic for the old Brighton Beach are mortified. Everyone knows what condos will do: bring in yuppies, block the view of the ocean, and change the whole feel of the neighborhood. But Singer, whose son nearly wandered into a drive-by shooting last year on his way to buy a comic book, argues that the only way to save Brighton Beach is by attracting new people into putting a stake in it. The condos at the Baths, she contends, will protect the value of the surrounding buildings. Without development, she warns, Little Odessa will continue to deteriorate until the Russian immigrants get fed up and resettle in the suburbs. With an elderly population and too many apartment vacancies, the neighborhood will revert to the decay of the early Seventies. Then the old-timers may come to miss their impious neighbors. ■

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DIARIST

Homecoming

Beth Fallon

I got sick (viral pneumonia, a real stinker) so they made me go someplace warm to recover. First time out of New York for that long in twenty years.

Naturally, I pick San Juan. At least it's a city, you know? Universities. A million people. Traffic to cut your throat over. Yet a climate like the Garden of Eden, beach at the doorstep, a rich and complex heritage, the restful formality of Spanish manners.

Also, a plane for New York every hour on the hour, in case I go insane.

I loved it. They even have the Mets and Yanks on cable TV. (I don't know what you take intravenously when you're sick. I mainline baseball. And chocolate.)

But after six weeks of infinite kindliness, generosity, friendship, hospitality, and even real bookstores, I am restless in Eden. Why? What is missing here that New York has? Bagels we have in San Juan, and baseball. Crowds, crime, a harbor; people of all beautiful colors and sizes; French restaurants; also muggers, problems—all present and accounted for.

So—what? I get my first clue from my diversity fixation.

Asians. Not enough Asians. Some Japanese tourists at the resplendent El San Juan Hotel, yes. Some business travelers and immigrants, yes. But not enough Korean delis. Not a single one personally found by me. Also, not enough Indians and Pakistanis, or Muslims generally. American Indians, yes, thank God. But I'm here six weeks and have not seen a single Sikh. On my home block, I have three. We are not personally acquainted, but they are dignified and beautiful. I miss them. I miss everybody.

Furthermore, I am beginning to think I recognize every second face in the televised stands at Yankee Stadium. I am losing it. Definitely. A wise and perceptive friend has sent me a card completely covered with Manhattan's skyline at twilight. All blue and beautiful. "You probably need this by now," she writes.

I do. I'm homesick. It's not just the Chrysler Building. It's the moral attitude. I need to be snooted by somebody because I wasn't born in Brooklyn. I need to tell the Yankees I hate those new jackets—they look like Oakland's. I need to tell Steinbrenner what I think of him.

Bougainvillea are gorgeous, but where's the challenge when it's always 85 degrees? Give me daisies at the Bronx Botanical, peonies at the Brooklyn, things that thrive in nasty climates. Like us.

Enough. Thank you, Eden. I'm better. I'm coming home. And for once, in this unreliable vale of tears, it is better than I dreamed. On West 85th Street, the trees are still that fragile spring green—hardy, tough New York trees, fighting to survive, like everybody else. Benefactors with windowboxes have planted flowers, and nobody has stolen them yet.

I see the Sikhs right away, majestic as ever. It is all I can do not to actually curtsy. Three Korean delis within four blocks are selling fresh asparagus. I walk an extra block, get it for 99 cents—a dollar less. Hah.

I celebrate with iced coffee at Panarella's and Eric the waiter is glad to see me. I am reconnecting. It is warm, for once, and people are wallowing. You cannot take weather for granted. Anything for granted. Still, they hurry. They rush. I need the rush.

Good thing, because at 6:30 the next morning, it starts with the jackhammers and the car alarm. I know I'm really home because I'm fantasizing I have a machine gun and am shooting up the car. Not the occupants, there are none. Just the actual metal.

Even the jackhammer is perversely welcome. It covers the howls of the homeless lunatic outside screaming. It dulls the guilt, rage, helplessness, despair—that I can do nothing, or almost nothing, to help my wounded city.

So what? I will do my "almost nothing" the best I can, and hope. Suddenly I know I missed the screamer just as much as the Cub Scouts (I swear to God) I see that Saturday on the number 4 train to 161st Street in the Bronx.

They see the parking garage.

"Is that it? Is that Yankee Stadium?" one says.

"No," I say, intruding, delirious. "That's it."

"Oh. Ohhhhh."

Yes. Oh.

Beth Fallon wrote columns for the Daily News *and the* New York Post. *She was also a commentator for WWOR-TV.*

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